

EXHIBIT 1

1
2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK
4 11 CIV 0691(LAK)

5 -----x
6 CHEVRON CORPORATION,

7 Plaintiff,

8 - against -
9

10 STEVEN DONZIGER, et al.,

11 Defendants.
12 -----x

13 May 2, 2013
14 9:07 a.m.

15 Videotaped Deposition of ALBERTO
16 GUERRA BASTIDAS, taken by Defendants,
17 pursuant to Notice, held at the offices of
18 Gibson Dunn & Crutcher LLP, 200 Park
19 Avenue, New York, New York, before Todd
20 DeSimone, a Registered Professional
21 Reporter and Notary Public of the State of
22 New York.
23
24
25

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A P P E A R A N C E S: (Continued)

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ALSO PRESENT:

MAX GITTER, ESQ., Special Master

JUSTIN ORMAND, ESQ., Assistant to the
Special Master

JESUS RIVERA, Spanish Interpreter

JAMES ROBERTS, Videographer

1
2 THE SPECIAL MASTER: Two
3 things. I just did the first of the
4 three. Two things. First, I want to be
5 sure everybody knows about the rule that
6 if you use a writing or a video or an
7 audio in some language other than English,
8 that you have to have a translation, side
9 by side translation in front of me as well
10 as in front of the witness. That is item
11 one.

12 Item two, it is my rule there
13 are no speaking objections of any kind and
14 no colloquy of any kind while the witness
15 is present in the room. Therefore, every
16 objection has to be followed by a single
17 word or catch phrase, privileged, form,
18 relevance, whatever it is, and no more, in
19 front of the witness.

20 I am told that this witness has
21 no English to speak of and if that is true
22 and if counsel are satisfied, all counsel
23 are satisfied to that effect, we can relax
24 that portion of the rule a very small
25 amount. You can elaborate a sentence

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2 worth. But I would much rather that any
3 colloquy or argument about a privilege
4 objection be done at a break, that they
5 can be collected, people can be asked to
6 move on, there are various ways to do it.
7 But it is much better to do it at a break,
8 among other reasons, since argument
9 doesn't count, argument over objections
10 and things of that sort don't count unless
11 I say so against the seven hours, it is
12 much easier for the reporter, or whoever
13 is doing the counting, to keep track of
14 where we stand in the seven hours.

15 There was another point and I
16 just lost it for a moment. When I think
17 of it, I will come back to it.

18 MR. VESELKA: One of the issues
19 that we would have with regard to trying
20 to have some discussions briefly with him
21 present, Mr. Rivera is going to
22 reflexively translate.

23 THE SPECIAL MASTER: You know
24 what, you are right. Let's stick with the
25 rule in its strictest form, no colloquy of

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2 any kind while the witness is in the room.

3

4 MR. VESELKA: If I may,
5 Mr. Gitter, I have two points I would like
6 to bring up very briefly.

6

7 One is that I believe you
8 recall we had originally requested that
9 this be a more than seven-hour deposition
10 because of the translation, and as I
11 understood the way the court has ruled is
12 that is sort of within your purview today,
13 we will wait and see and be as efficient
14 as we can and see what we can get done.
15 But I wanted to preserve that we may be
16 asking you at the end for some additional
17 time. I don't know. Though we have
18 already agreed with them at least for this
19 setting that they said they only had this
20 one day available. So when we are
21 rescheduling it --

21

22 MR. MASTRO: That's correct, we
23 only have this one day for today.

23

24 THE SPECIAL MASTER: I
25 understand we issued an order yesterday
that Zambrano, if he comes, is going to be

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2 more than just the three and a half hours.
3 If you ask for more time, I'm a little
4 worried about the amount of time just
5 exploding on us.

6 MR. MASTRO: And we object to
7 the more than seven hours in this case
8 because they are getting seven hours to
9 depose him. We are not taking any of the
10 time.

11 THE SPECIAL MASTER: That much
12 I understood. I don't need to decide that
13 now and I'm not going to decide it.

14 MR. VESELKA: As to the order
15 vis-à-vis Mr. Zambrano, we could talk on a
16 break later, I don't want to take up the
17 time now, because there is a clarification
18 I wanted to ask about because I didn't
19 understand, if you granted more time after
20 the three and a half for us and the three
21 and a half for them and you granted them
22 more time, I assume if there is more time
23 granted it would be split evenly too?

24 THE SPECIAL MASTER: No.

25 MR. VESELKA: I thought Judge

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Kaplan said whatever time on any witness would be split evenly.

THE SPECIAL MASTER: That's not the way Mr. Katz and I talked about this. That's not the way we understood that. We will figure it out. We will clarify it.

MR. VESELKA: The final thing is last evening we received an additional production with regard to this witness, or matters that regard this witness that we just received, which is the same thing that happened with Mr. Rivero's deposition last week.

THE SPECIAL MASTER: You mean you received it from Chevron?

MR. VESELKA: Yes, things that we believe should have been produced way in advance of now. The issue to be taken up is even though it is marked confidential and there are still redactions in it, but we will do -- I want to get done, if I can, today. But I just want to preserve all issues to come forward.

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THE SPECIAL MASTER: Got it.

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MR. MASTRO: Your Honor, to be clear, it was 11 pages of more personal information recently with redactions about location and things like that for a witness who has security concerns.

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THE SPECIAL MASTER: Folks, let me just say, I'm not saying this to boast, but I got all of the alleged privileged documents from the counsel for the witness yesterday, Beyer, I got them late at night on computer, which was very difficult to open. I managed somehow to get them open with the help of Mr. Ormand. I read those very carefully, very late into the night. I got up at 4:30 in the morning and finished the reading and figured out what I was going to do as a result.

I know you folks work exactly the same way. We all have been working that way since we started the practice of law, some of us 45 years ago. So understand how much sympathy you get from me on productions the night before,

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2 particularly if they are only 11 pages,
3 having just seen one literally 200 pages
4 that I had to first try to open. But you
5 may get sympathy.

6 MR. MASTRO: Your Honor, I just
7 want to make one very brief point, which
8 is that I will be the person --

9 Mr. Clayman is the witness' lawyer. I
10 will also be defending in terms of the --
11 from Chevron's perspective, but
12 Mr. Weitzman who is here, he is closer to
13 some of the document issues and otherwise
14 there may be times where I have to step
15 out or have to turn to him to speak on
16 certain questions. I just wanted to let
17 you know.

18 THE SPECIAL MASTER: I assume
19 counsel will have no objection. Everybody
20 understands this is a game of singles, not
21 doubles, so there is only one person
22 making objections. There is only one;
23 there can be small exceptions.

24 Now I have been reminded by
25 Mr. Clayman's name that I wanted to say

1
2 something on the record and make a
3 disclosure. The disclosure is this. Like
4 virtually every lawyer in the City of New
5 York of a certain age, I have known
6 Mr. Clayman for a very long time and we
7 have gotten along well. I do not frankly
8 remember whether I actually had a case
9 with him. I think I did, but I can't
10 remember what it was. In any event, I'm
11 quite confident that his presence here
12 will not affect my ability to move fairly.
13 If I can get consent from counsel about
14 that, that would be appreciated.

15 MR. VESELKA: I don't have any
16 problem with your being here because of
17 Mr. Clayman's presence.

18 THE SPECIAL MASTER: Very good.

19 * * *

20 THE VIDEOGRAPHER: Good
21 morning. We are now on the record.
22 Please note the microphones are sensitive
23 and may pick up whispering and private
24 conversations. Please turn off all cell
25 phones or place them away from the

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2 microphones as they can interfere with the
3 deposition audio. Recording will continue
4 until all parties agree to go off the
5 record.

6 My name is Jim Roberts
7 representing Veritext with offices in New
8 York City, New York. Today's date is May
9 2nd, 2013. The time is approximately
10 a.m. This deposition is being held at
11 Gibson Dunn located at 200 Park Avenue,
12 New York City, New York, and is being
13 taken by counsel for the defendant. The
14 caption of the case is Chevron Corporation
15 versus Steven Donziger, et al. The case
16 is filed in the U.S. District Court,
17 Southern District of New York, case number
18 11 CIV 0691(LAK). The name of the witness
19 is Alberto Guerra Bastidas.

20 Our court reporter, Todd
21 DeSimone, also of Veritext, has noted
22 counsel's appearances and will now swear
23 in the interpreter and the witness.

24 * * *
25 J E S U S R I V E R A,

1 A. GUERRA BASTIDAS

2 called as an interpreter, was duly sworn
3 to translate the testimony from English to
4 Spanish and Spanish to English as follows:

5 * * *

6 A L B E R T O G U E R R A

7 B A S T I D A S,

8 called as a witness, having been first
9 duly sworn, was examined and testified
10 as follows:

11 THE SPECIAL MASTER: One small
12 mechanical matter. Can I be informed of
13 who it is that is keeping the time?

14 THE VIDEOGRAPHER: I would be
15 happy to.

16 THE SPECIAL MASTER: You know
17 it runs only while the witness is in the
18 room.

19 EXAMINATION BY MR. VESELKA:

20 Q. Good morning, Mr. Guerra. Can
21 you give us your full name, please, sir.

22 A. I go by the name of Alberto
23 Guerra Bastidas.

24 Q. And you have signed I believe
25 it is two declarations for Chevron to use

1 A. GUERRA BASTIDAS

2 in this case; is that correct?

3 MR. MASTRO: Objection to form.

4 A. I have signed three sworn
5 statements.

6 Q. What are the dates of those
7 three?

8 A. November 2012, January 2013 and
9 April 2013.

10 Q. And the one for April 2013, do
11 you know what proceeding it was going to
12 be used in?

13 A. That statement makes -- strike
14 that. That declaration makes reference to
15 one document that I found among the main
16 documents and that I provided to Chevron.

17 Q. Which document is that?

18 A. A document that I identify as a
19 memory aid.

20 Q. My question was do you know
21 whether that declaration -- do you know in
22 what proceeding, rather, the proceeding
23 between Chevron and the Republic of
24 Ecuador in the BIT arbitration or this
25 case that declaration was going to be

1 A. GUERRA BASTIDAS

2 used?

3 A. I'm not aware as to in what
4 proceedings it may be used.

5 Q. How long is the April
6 declaration?

7 A. It is short, quite short.

8 Q. One or two pages?

9 A. From what I can recall, one
10 page.

11 Q. What do you remember saying in
12 that declaration?

13 A. That because my attorney,
14 Counsel Clayman, told me about the need to
15 provide documents that were requested by
16 the other party, I had to review such
17 documents among personal documents brought
18 over from Ecuador and because of that,
19 among the many documents that I have that
20 were brought over from Ecuador, I found
21 that document attached to other similar
22 documents that referred to personal
23 administrative matters which are also
24 entitled memory aid.

25 Q. Are you saying that you have

1 A. GUERRA BASTIDAS

2 recently brought up from Ecuador personal
3 documents that you did not have available
4 to review when you were preparing your
5 earlier declarations?

6 MR. MASTRO: Objection to form,
7 mischaracterizes prior testimony.

8 THE SPECIAL MASTER: The
9 witness may answer if he understands the
10 question.

11 A. I kindly request that you
12 repeat the question, please.

13 Q. Surely. I will step back and
14 try to break it down into a series of
15 questions.

16 In working with Chevron to
17 prepare the declarations you signed in
18 November of 2012 and in January of 2013
19 you had reviewed certain sets of documents
20 and provided some of those documents to
21 Chevron, correct?

22 A. Yes.

23 Q. The additional documents that
24 you found that were also referred to as
25 ayuda de memoria, or memory aid, in this,

1 A. GUERRA BASTIDAS

2 that's the subject of your April 2013
3 declaration, it came from a review of some
4 different set of documents that you just
5 recently brought up from Ecuador; is that
6 what you are saying?

7 A. That's not what I'm saying.

8 Q. You made a reference in your
9 answer earlier about the April
10 declaration, that you had gone through
11 some documents that you had recently
12 brought up from Ecuador; is that correct?

13 A. I came from Ecuador in January
14 2013 and I brought with me a large amount
15 of documents, some of them personal in
16 nature, some professional in nature, some
17 family related.

18 Q. How voluminous was it? I mean,
19 would you say it is five boxes, six boxes,
20 two boxes, how many?

21 A. I could quantify the volume of
22 documents as 100 pounds in documents.

23 Q. And I guess my question
24 presumed, and I guess your answer
25 presumed, these are actually hard copy,

1 A. GUERRA BASTIDAS

2 these are paper documents; is that
3 correct?

4 A. Yes, the documents I'm
5 referring to are physical documents,
6 paper.

7 Q. Had you reviewed that set of
8 documents in the time frame between April
9 of 2012 and November 12th of 2012 --
10 excuse me, let me back up and start over.

11 Had you reviewed that set of
12 papers and documents before you signed
13 your declaration of November 17, 2012?

14 MR. MASTRO: Objection to form.

15 THE WITNESS: So should I
16 answer notwithstanding the objection?

17 THE SPECIAL MASTER: Yes, if
18 you understand it.

19 A. Could you please repeat the
20 question.

21 Q. Had you reviewed that 100
22 pounds of documents that you just referred
23 to that you brought up in January of 2013
24 before you executed the declaration for
25 Chevron on November 17th, 2013 -- '12,

1 A. GUERRA BASTIDAS

2 2012?

3 MR. MASTRO: Same objection.

4 A. Well, those documents, before
5 they were attached, before they were made
6 part of the luggage and brought from
7 Ecuador, I reviewed them -- I reviewed
8 them very lightly without noticing
9 specifically in detail the contents of
10 each one because there were very many.

11 Q. Did you make available to
12 Chevron any of those particular documents
13 before you executed the declaration on
14 November 17th, 2012?

15 A. Regarding those documents
16 specifically, no.

17 Q. When did those documents --
18 when in January did those documents get to
19 you in the United States?

20 A. They arrived a few days after
21 my physical arrival.

22 Q. When did you arrive in the
23 United States in January of 2013?

24 A. I arrived precisely on January
25 12th, 2013.

1 A. GUERRA BASTIDAS

2 Q. [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]

3 [REDACTED]

4 MR. CLAYMAN: Objection, your
5 Honor. I would like to be heard.

6 THE SPECIAL MASTER: Let's have
7 the witness out of the room.

8 THE VIDEOGRAPHER: Off the
9 record, 9:35 a.m.

10 (Witness departs the room.)

11 MR. CLAYMAN: Your Honor, there
12 are serious security concerns with regard
13 to my client. I don't think it is
14 necessary, proper or appropriate for him
15 to be forced to say where he arrived. We
16 have given the date and the location is
17 not known and we don't want it to be
18 known.

19 MR. VESELKA: They have given
20 us numerous documents that show him flying

21 [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]

22 [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]

23 already have a number of those dates.

24 Also, there is no reason for any

25 confidentiality of where he lives or where

1 A. GUERRA BASTIDAS

2 he is in the U.S. The only issues that
3 the court has addressed has been issues of
4 concern of security in Ecuador, of course
5 with which we disagree, but there has not
6 been any issue with regard to any security
7 risk in the United States.

8 So we don't see any basis, we
9 think it is inappropriate. It is
10 inappropriate for the redactions in that
11 same regard after they have already waived
12 it with disclosing documents with respect
13 to his flight schedules between the
14 various cities.

15 THE SPECIAL MASTER: Mr.
16 Clayman?

17 MR. CLAYMAN: Your Honor, it
18 isn't the environment in Ecuador that we
19 are concerned about, it is individuals in
20 Ecuador who would want to do this
21 individual harm, my client, who easily
22 could come to this country. He has shown
23 absolutely no showing as to why he needs
24 to know that information.

25 MR. MASTRO: And, your Honor, I

1 A. GUERRA BASTIDAS

2 just wanted to say from Chevron's
3 perspective, we have designated documents
4 as confidential that we thought revealed
5 his location. We have redacted the
6 [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
7 the documents that were produced last
8 night. I don't think Mr. Veselka has
9 accurately characterized the --

10 THE SPECIAL MASTER: I don't
11 see there is a pressing need to know
12 [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
13 [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
14 anywhere else in the United States.

15 MR. CLAYMAN: Thank you, your
16 Honor.

17 MR. VESELKA: We are going to
18 need talk with him about who he is meeting
19 with, when he has given declarations, what
20 he has reviewed.

21 THE SPECIAL MASTER: That you
22 can do.

23 MR. VESELKA: So I can't ask
24 him where he was when he signed a
25 declaration, when he has put a location on

1 A. GUERRA BASTIDAS

2 it?

3 THE SPECIAL MASTER: Just a
4 second. If he has put the location on
5 it -- and can somebody tell me what
6 location was put on it?

7 MR. VESELKA: One is New York,
8 one is in Chicago. I don't know the April
9 one. They have never produced the April
10 one to us. That is the first we have ever
11 learned about it today. So I don't know
12 where that one was signed.

13 MR. MASTRO: The April
14 declaration obviously, your Honor, was
15 filed in connection with the lawsuit.
16 They obviously received that. It was
17 e-filed. But leaving that aside, we do
18 not state on the face -- it is not stated
19 on the face of declarations that
20 Mr. Guerra signed, other than perhaps the
21 one for April that was submitted, and I'm
22 not sure, we are checking that right now.

23 THE SPECIAL MASTER: Can you
24 show me what you are talking about, Mr.
25 Veselka?

1 A. GUERRA BASTIDAS

2 MR. VESELKA: I can read from
3 the last line of the November 17th one,
4 "executed in the city of Chicago, Illinois
5 on November 17, 2012."

6 THE SPECIAL MASTER: It does
7 not give you an address, right?

8 MR. VESELKA: No, it does not
9 give an address. If the issue is address
10 versus cities, that's a different thing.

11 THE SPECIAL MASTER: Just a
12 second. Let's be very careful. You can
13 ask him only what appears on the document
14 about the city, that is to say that no
15 further inquiry about his locations apart
16 from what is shown in the document.

17 MR. VESELKA: This is a
18 witness, a major witness that we may want
19 to subpoena for trial. I believe we are
20 entitled to know -- I think they are
21 obligated to let us know the location of
22 witnesses.

23 THE SPECIAL MASTER: At the
24 point when you do that, when you want to
25 do that, you can make an application for

1 A. GUERRA BASTIDAS

2 that. But right now you have no need to
3 know anything about his addresses beyond
4 what is on the face of the documents that
5 you have been given so far as I can tell.

6 And I do understand the
7 security concern that is being expressed
8 by Mr. Clayman. I have heard it before,
9 not with respect to this witness. I have
10 heard it before. I have heard another
11 lawyer in a related proceeding express a
12 security concern about a person residing
13 in the United States with respect to
14 possible harm to come to him from someone
15 in Ecuador. So I cannot say off the top
16 of my head that it is a frivolous position
17 that is being taken.

18 MR. VESELKA: I understand
19 that. And --

20 THE SPECIAL MASTER: I'm sorry,
21 look, I'm not trying to prevent you from
22 learning anything you are entitled to
23 learn. I'm just weighing the need, the
24 nature of the need that you have against
25 the severity of the concern that is being

1 A. GUERRA BASTIDAS

2 expressed by a member in good standing of
3 the Bar of the City of New York.

4 MR. VESELKA: And I will be
5 ready to move on. May I ask of counsel,
6 because I'm unaware, I somehow missed if
7 they have filed this third declaration, as
8 to when that was filed, with what
9 pleading?

10 THE SPECIAL MASTER: You
11 certainly may.

12 MR. WEITZMAN: My
13 understanding, I'm going to get the filed
14 copy sent over to me and printed, that it
15 was filed with the reply motion on the
16 summary judgment, on the summary judgment
17 motion in April.

18 THE SPECIAL MASTER: In fact,
19 Mr. Weitzman is actually refreshing my
20 recollection, I think I saw that.

21 MR. WEITZMAN: There were two
22 declarations filed, one by Mr. Guerra and
23 one by Mr. Clayman with the reply papers.
24 I will obtain a copy.

25 MR. VESELKA: Do you remember

1 A. GUERRA BASTIDAS

2 when that was filed?

3 MR. WEITZMAN: I don't know the
4 exact date, but I will obtain copies and
5 provide a copy to you of the filed copy.

6 MR. VESELKA: Thank you.

7 THE SPECIAL MASTER: I
8 guarantee you that Mr. Ormand can get it
9 for you in just a few minutes by going to
10 the docket.

11 MR. VESELKA: But I need to ask
12 one other clarification, Mr. Gitter. To
13 the extent they have produced documents to
14 us, Mr. Guerra, through Mr. Clayman, has
15 produced documents to us which reflect his
16 flight schedules which list cities, can I
17 use those?

18 THE SPECIAL MASTER: If they
19 have been marked confidential, then we are
20 going to have to seal that portion of the
21 transcript.

22 MR. VESELKA: These are not
23 marked confidential.

24 THE SPECIAL MASTER: Then yes,
25 you may.

1 A. GUERRA BASTIDAS

2 MR. VESELKA: That's where the
3 questions were coming from.

4 THE SPECIAL MASTER: If it
5 appears right on the face of it, fine.

6 MR. MASTRO: He can come back
7 in, right?

8 MR. VESELKA: Yeah.

9 THE SPECIAL MASTER: Let's move
10 on. You have my ruling. To the extent
11 and only to the extent it has been exposed
12 in a nonconfidential form may you refer to
13 his whereabouts in the United States.

14 (Witness returns to the room.)

15 THE VIDEOGRAPHER: Back on the
16 video record, 9:45 a.m.

17 (Guerra Exhibit 7 marked for
18 identification.)

19 BY MR. VESELKA:

20 Q. Mr. Guerra, you have been
21 handed what is marked as Exhibit No. 7.
22 Can you identify this as some travel
23 itineraries for you and your family in
24 January and I think February, let's see if
25 it goes back, and -- from November of 2012

1 A. GUERRA BASTIDAS

2 through January and February of 2013?

3 MR. MASTRO: Objection to form.

4 THE SPECIAL MASTER: Answer it
5 if you can understand it.

6 A. Yes, I understood.

7 Yes, these reflect tickets --
8 air tickets for flights for my wife and
9 myself.

10 Q. And were these tickets all paid
11 for by Chevron?

12 A. Yes.

13 Q. And if we turn to page 101,
14 that shows you and your wife flying from

15 [REDACTED]
16 [REDACTED]

17 A. Yes, sir, yes.

18 Q. And that's the trip you were
19 referring to a while ago when you came to
20 the United States?

21 A. Yes.

22 Q. And that's when the personal
23 effects, including the 100 pounds of
24 documents, were shipped up sometime in or
25 around the date of that trip?

1 A. GUERRA BASTIDAS

2 A. Well, no, those documents, that
3 shipment, that was sent later.

4 Q. So you did not have those

5 [REDACTED]

6 [REDACTED]

7 other Chevron officials on January 13th of
8 2013, did you?

9 MR. MASTRO: Objection to form.

10 A. On the date that you mentioned,
11 the date in your question, I didn't have
12 that documentation, the documents I'm
13 referring to.

14 Q. Now, while we have got Exhibit
15 7 out here, on that page 101 it reflects a

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

1 A. GUERRA BASTIDAS

2 Q. So you did not fly back to
3 Quito on February 2nd of 2013?

4 A. No, I have not done that.

5 Q. And I think you just said you
6 haven't been back since, correct?

7 A. I have not returned to Ecuador
8 since February.

9 Q. Do you have any plans to return
10 to Ecuador?

11 A. I consider that I will return
12 to Ecuador once I consider that there is
13 no risk to my personal safety and my
14 family's.

15 Q. When the ticket was first
16 booked that's reflected in the itinerary
17 on that page, were you planning at that
18 time when you came up to the United States
19 to return to Ecuador?

20 A. I have not planned to return to
21 Ecuador since January 12th when I arrived
22 in the United States.

23 Q. And that's because during that
24 time frame of January 12th through
25 February 2nd you knew Chevron was going to

1 A. GUERRA BASTIDAS

2 file in this case your declarations,
3 correct?

4 MR. MASTRO: Objection to form.

5 THE SPECIAL MASTER: Hold on a
6 second. Let me look at this objection.

7 You may answer it if you
8 understand it.

9 A. I knew that I could not return
10 to Ecuador once it became known, once it
11 was made public in Ecuador regarding my
12 disposition to cooperate with Chevron in
13 this issue.

14 Q. As part of your cooperation
15 with Chevron, you provided the first two
16 declarations we described earlier of
17 November 17th, 2012 and January 13th of
18 2013, correct?

19 A. I signed those declarations,
20 yes.

21 Q. And in those declarations you
22 admitted to violating Ecuadorian law,
23 correct?

24 A. Yes.

25 Q. So you knew you would be at

1 A. GUERRA BASTIDAS

2 risk for criminal prosecution in Ecuador
3 if you returned, correct?

4 A. I feared physical attacks and
5 attacks to the physical integrity and
6 personal integrity of myself and my
7 family.

8 MR. VESELKA: Objection,
9 nonresponsive. Move to strike.

10 THE SPECIAL MASTER: Stricken.

11 Q. My question was you knew that
12 your admissions in your declarations of
13 the violation of Ecuadorian law meant you
14 could be prosecuted in Ecuador for those
15 violations, correct?

16 A. They could do so and in fact
17 they will do so.

18 Q. You stated in your declarations
19 that you knew that these were violations
20 of law because you admit today, do you
21 not, that you violated Ecuadorian law?

22 THE SPECIAL MASTER: I object
23 to that question.

24 MR. MASTRO: Objection to form.

25 THE SPECIAL MASTER: I'm sorry,

1 A. GUERRA BASTIDAS

2 I don't understand that objection.

3 MR. VESELKA: You don't
4 understand the question?

5 THE SPECIAL MASTER: Yeah.

6 MR. VESELKA: I will rephrase
7 the question.

8 THE SPECIAL MASTER: You are
9 mixing up two time frames. I'm sorry.

10 MR. VESELKA: Purposely, but I
11 can straighten it out.

12 MR. MASTRO: Your Honor, I
13 don't want to interrupt the line of
14 questioning but I would like to be heard
15 when the witness is out of the room on the
16 question of this striking. I didn't want
17 to interrupt at that moment or have a
18 speaking objection, but I would like to be
19 heard later on.

20 THE SPECIAL MASTER: Fine.

21 MR. MASTRO: Thank you.

22 Q. Do you admit today, as you
23 admitted in your declaration, that you
24 violated Ecuadorian law?

25 A. I admit having done some bad

1 A. GUERRA BASTIDAS

2 things in my life but in this case I admit
3 to having violated Ecuadorian laws along
4 also with other people.

5 Q. And the violations you admit
6 include writing judgments or orders for
7 other judges when you were not a judge?

8 A. Yes.

9 Q. And that could constitute
10 tampering with a public document?

11 A. I'm not fully aware as to how
12 that would be qualified as a crime in
13 Ecuador. Perhaps --

14 THE INTERPRETER: And the
15 interpreter needs to look up the term
16 "falsedad ideologica." Excuse me, real
17 quick.

18 THE SPECIAL MASTER: While he
19 is doing that, can we please have printing
20 out of the question and answer that I had
21 stricken, please, since we are going to be
22 discussing it later at a break? Somebody
23 please arrange that.

24 A. Misrepresentation of a
25 document.

1 A. GUERRA BASTIDAS

2 Q. You also admit to having
3 solicited bribes with regard to your
4 involvement of trying to help Chevron in
5 the Lago Agrio litigation?

6 A. Could you please repeat and
7 clarify your question, please?

8 Q. Sure.

9 You admit that you directly
10 and/or through others approached
11 representatives of Chevron to solicit
12 bribes for your trying to help them in the
13 Lago Agrio litigation?

14 MR. MASTRO: Objection to form.

15 THE SPECIAL MASTER: You may
16 answer it if you understand it.

17 A. I did understand, yes.

18 I admit having approached
19 Chevron on two occasions through the
20 suggestion and authorization of
21 Mr. Zambrano with the second time, the
22 second occasion that I approached Chevron
23 when I stated Mr. Zambrano's intentions to
24 help with the judgment in exchange for
25 money. Obviously I was kind of a

1 A. GUERRA BASTIDAS

2 go-between. Yes, I was, too, hoping that
3 I would get some amount for me.

4 Q. You expected to get paid as
5 part of that transaction, if it was done?

6 MR. MASTRO: Objection to form.

7 A. Yes.

8 Q. And you expected that --

9 MR. MASTRO: The witness,
10 please give me a chance to state my
11 objection first before we proceed.

12 THE WITNESS: Yes.

13 Q. And you expected the source of
14 that payment to you to be Chevron?

15 MR. MASTRO: And I object to
16 the form again, foundation, and assumes
17 facts not in evidence.

18 THE SPECIAL MASTER: I think if
19 you rephrase it, "if the source of that
20 payment were to be made."

21 Q. I'm going to rephrase the
22 question.

23 If the payment that you were
24 soliciting had been made, you expected to
25 be paid a portion of that from the money

1 A. GUERRA BASTIDAS

2 that would have been paid by Chevron?

3 MR. MASTRO: I'm going to
4 object to form again.

5 THE SPECIAL MASTER: You may
6 answer.

7 A. I considered that if Chevron
8 agreed -- acceded to paying Mr. Zambrano,
9 Mr. Zambrano would share with me an amount
10 or a percentage from that amount.

11 Q. And that was your motivation
12 for approaching Chevron, correct?

13 A. That was the motivation
14 Mr. Zambrano had when requesting that I
15 approach Chevron.

16 MR. VESELKA: Objection,
17 nonresponsive.

18 THE SPECIAL MASTER: I'm sorry,
19 that is in part responsive. I'm not
20 striking that. You may follow it up.

21 Q. My question goes to your
22 motivation. Your motivation in
23 approaching Chevron was to get paid
24 whatever portion you would get if a
25 transaction were paid by Chevron, correct?

1 A. GUERRA BASTIDAS

2 MR. MASTRO: Objection to form.

3 Asked and answered.

4 THE SPECIAL MASTER: No, it
5 hasn't. Go ahead.

6 A. Regarding this, in me, there
7 were two motivations, to collaborate, to
8 contribute with my friend, Mr. Zambrano,
9 and be the recipient of some amount of
10 money.

11 Q. Let's go back to the topic we
12 were discussing earlier with regard to the
13 documents that were brought up as part of
14 your baggage to the United States sometime
15 after January 12th of 2013.

16 MR. CLAYMAN: Is that a
17 question? I'm sorry.

18 MR. VESELKA: No.

19 THE SPECIAL MASTER: In fact,
20 I'm going to strike that because I'm
21 worried about something that may be
22 unclear on the record to you. It is not
23 unclear on the record to me because I'm
24 following it very closely on the computer
25 screen.

1 A. GUERRA BASTIDAS

2 I'm striking your preamble.

3 Ask a question. Your preamble has a
4 different characterization of documents
5 from what he had stated pursuant to your
6 question about documents before and which
7 documents were shipped up at that time.

8 MR. CLAYMAN: Thank you, your
9 Honor.

10 Q. Have you made all of those
11 documents that arrived whenever you
12 testified they arrived that you say you've
13 looked through now available to your
14 counsel, Mr. Clayman, to review for
15 responsiveness to the subpoena?

16 MR. CLAYMAN: I would object to
17 that, your Honor.

18 THE SPECIAL MASTER: Let's have
19 the witness out of the room.

20 THE VIDEOGRAPHER: Off the
21 video record, 10:14 a.m.

22 (Witness departs the room.)

23 THE SPECIAL MASTER: What's the
24 nature of your objection, Mr. Clayman?

25 MR. CLAYMAN: Your Honor, I

1 A. GUERRA BASTIDAS

2 believe that what my client and I have
3 spoken to, what documents I have shown him
4 and what documents he has shown me is part
5 of our work product, part of our
6 preparation involves privileged
7 conversations, and the result of it is
8 work product and is not subject to
9 inquiry.

10 THE SPECIAL MASTER: I thought
11 you were going to raise a different issue.

12 MR. CLAYMAN: I will raise that
13 one too.

14 MR. VESELKA: I can determine
15 whether this witness --

16 THE SPECIAL MASTER: Let me
17 tell you my problem. I was paying very
18 close attention on the screen to the exact
19 words you were using because I was afraid
20 that a confusion had arisen over what
21 documents came right after January 12.

22 Your question on that issue
23 included the word "personal effects" and
24 "documents" that I thought the witness was
25 talking about personal effects and

1 A. GUERRA BASTIDAS

2 documents having arrived then and he
3 distinguished those from professional
4 documents. Because this all began with
5 the basis for your questioning about this
6 last affidavit. I want to be clear what
7 my problem has been and why I was saying
8 anything at all.

9 I want to think about your
10 objection, Mr. Clayman, because I think
11 the record means that he shipped personal
12 documents around January 12 and so I'm not
13 sure that your objection even applies.
14 But I want to think about that. But I
15 also wanted to be sure that everybody in
16 the room heard what I see on the screen,
17 and what I heard, about what documents
18 were being sent then.

19 MR. VESELKA: But my
20 understanding from his previous testimony
21 was that at some point after the 12th and
22 13th, that as part of coming up he had 100
23 pounds of documents, that some were
24 personal, some were professional, and some
25 were, I forgot what the third --

1 A. GUERRA BASTIDAS

2 THE SPECIAL MASTER: You are
3 now identifying the problem that I think
4 you have created on the record. I had
5 understood, you having begun with what are
6 the documents that you are talking about
7 with respect to this last affidavit, and
8 he made clear that he had reviewed a set
9 of personal documents which he hadn't
10 previously reviewed and came up with a new
11 document called a memory aid that he had
12 just filed.

13 As I understood the testimony
14 at least, and I think you had made clear
15 in one last question about the
16 documents -- about what was shipped up on
17 January 12 or thereabouts you used the
18 phrase "your personal effects and
19 documents." I thought he was talking
20 about and you were talking about the
21 personal documents. If you want to
22 clarify it, you can do that.

23 MR. VESELKA: We can come back
24 to this later. All I'm trying to find out
25 is if there are material that he got and

1 A. GUERRA BASTIDAS

2 reviewed after the material that had been
3 prepared and produced, whether it ever got
4 looked at for responsiveness either to the
5 request from Chevron or to the subpoena.
6 Because I'm going to ask where did you
7 look to produce them, did you provide
8 them.

9 THE SPECIAL MASTER: Why don't
10 you do that. By the way, with that word
11 "subpoena" you have just mooted
12 Mr. Clayman's objection.

13 MR. MASTRO: Your Honor, should
14 we wait for a different break or can I be
15 heard on the striking question?

16 THE SPECIAL MASTER: I guess
17 since he is out, we are on a break. Go
18 ahead. The question was "So you knew you
19 would be at risk for criminal prosecution
20 in Ecuador if you returned, correct?"

21 No, let's go back.

22 "Question: As part of your
23 cooperation with Chevron, you provided the
24 first two declarations we described,
25 November 17th and January 13th, correct?

1 A. GUERRA BASTIDAS

2 "I signed those declarations,
3 yes.

4 "And in those declarations you
5 admitted to violating Ecuadorian law?

6 "Answer: Yes.

7 "Question: So you knew you
8 would be at risk for criminal prosecution
9 in Ecuador if you returned, correct?

10 "Answer: I feared physical
11 attacks and attacks to the physical
12 integrity and personal integrity of myself
13 and my family.

14 "Mr. Veselka: Objection,
15 nonresponsive, move to strike.

16 "The Special Master:
17 Stricken."

18 Now, sir, make your argument.

19 MR. MASTRO: Your Honor, the
20 reason why Mr. Guerra's answer I believe
21 was partially responsive to the question
22 is that the suggestion of Mr. Veselka's
23 question and the line of questioning is
24 that this witness left Ecuador or wouldn't
25 return to Ecuador because he feared

1 A. GUERRA BASTIDAS

2 criminal prosecution alone. In fact, the
3 witness answers it and says actually, I
4 wouldn't go back because I fear my
5 physical safety. It is not because of
6 that.

7 THE SPECIAL MASTER: No, no,
8 I'm sorry, I overrule -- you are wrong.
9 The striking stands. You can say what you
10 would like.

11 My problem, let me just tell
12 you, Mr. Veselka, the problem you are
13 creating, if this is taken out of context
14 in any publicity, there is a problem.

15 MR. MASTRO: This is the
16 problem, your Honor. He is trying to
17 create a false impression. The witness is
18 saying --

19 THE SPECIAL MASTER: Mr.
20 Mastro, take it up with Judge Kaplan if
21 you disagree with my ruling. You have two
22 days to appeal. My ruling is this was
23 unresponsive to the specific question he
24 asked. The specific question he asked
25 was, so you knew you would be at risk of

1 A. GUERRA BASTIDAS

2 prosecution in Ecuador, correct? Answer:
3 I feared physical attack for a different
4 reason.

5 He didn't ask him about fears.
6 He didn't ask him about fears of any kind.
7 He didn't ask him about fears of being
8 prosecuted. He asked him about fears of
9 going back for fear of prosecution. He
10 asked him the simple question, you knew
11 you would be at risk for prosecution,
12 period. He is entitled to that. He is
13 cross-examining the witness.

14 The witness made clear that, A,
15 he admitted that he violated the law; B,
16 he also made clear as a bell throughout
17 that he feared physical attack. I mean,
18 please, Mr. Mastro, you need no more
19 argument. I'm ruling against you. Take
20 it up with Judge Kaplan if you disagree.

21 MR. MASTRO: I'm going to take
22 it up, your Honor. But the suggestion
23 that he wouldn't go back to Ecuador
24 because he feared criminal prosecution,
25 and that is not what the witness was

1 A. GUERRA BASTIDAS

2 responding. The witness said I won't go
3 back to Ecuador because I fear for my
4 safety.

5 THE SPECIAL MASTER: Mr.
6 Mastro, as you well know from prior
7 experience, I believe that when a question
8 calls for a yes or no answer, as this one
9 is, and is very simple and is declarative
10 and has nothing in it other than one
11 simple declarative statement of content,
12 he could have answered it yes or no. He
13 should have answered it yes or no. The
14 volunteered portion was unresponsive and
15 stricken.

16 MR. VESELKA: Since we have
17 taken this break, do we want to go ahead
18 and take a real break so we don't have to
19 do another one in 20 minutes?

20 THE SPECIAL MASTER: Correct,
21 let's do that.

22 (Recess taken.)

23 THE VIDEOGRAPHER: We are going
24 back on the record at 10:38 a.m. This is
25 the beginning of disk two in the

1 A. GUERRA BASTIDAS

2 deposition of Alberto Guerra Bastidas.

3 BY MR. VESELKA:

4 Q. In January of 2012 how were you
5 employed?

6 A. At that time I was an attorney
7 for an insurance company.

8 Q. In Quito?

9 A. In Quito.

10 Q. And how long did you have --
11 from when until when did you have that
12 job?

13 A. From what I can recall, I had
14 this job from June of 2008 to December of
15 2012, with two short periods during that
16 time.

17 Q. You mean two short periods
18 where you were not working for that
19 insurance company?

20 A. Yes.

21 Q. And what was the reason for
22 those two intervals not working for that
23 company?

24 A. Because during the intervals
25 that I'm referring to, I worked for the

1 A. GUERRA BASTIDAS

2 State.

3 Q. And what was that position?

4 A. On the first one, I was an
5 advisor of a National Assembly member,
6 meaning of the National Assembly. And the
7 second intervals, I was the attorney for a
8 municipality, for a local government,
9 sectional local government of La Joya de
10 los Sachas. That's the name.

11 Q. How long were you the lawyer
12 for that municipality, from when to when?

13 A. From what I recall, I was the
14 attorney for the municipality between May
15 and June of 2012.

16 Q. What were you paid when you
17 were on the Provincial Court of Sucumbios?

18 A. At first, from what I recall, I
19 was receiving a monthly salary of \$1,500
20 approximately, but by the end of my
21 position, of my employment, I was earning
22 around \$5,000 per month.

23 Q. And what did you earn working
24 for the insurance company?

25 A. In the insurance company, the

1 A. GUERRA BASTIDAS

2 beginning, I was earning \$1,500 and toward
3 the end I was earning \$500.

4 Q. What did you earn as the lawyer
5 for the municipality La Joya de los
6 Sachas?

7 A. I remember having received
8 around \$1,012 per month.

9 Q. In 2012 you were trying to do
10 some renovations or repairs to your home;
11 is that correct?

12 A. I was trying to finish the
13 construction of my home in the best way.

14 Q. So the house was not yet
15 completed?

16 A. Correct.

17 Q. Were you living in the house or
18 was this going to be a new house you were
19 going to move into?

20 A. In 2012 the house had not been
21 completely finished according to what had
22 been planned, but my family and I had been
23 living in that house since January.

24 Q. Now, you told Chevron's lawyers
25 when you were meeting with them that you

1 A. GUERRA BASTIDAS

2 were making \$80,000 a year as of January
3 2013; is that right?

4 MR. MASTRO: Objection to form.

5 MR. CLAYMAN: There is an
6 objection.

7 THE SPECIAL MASTER: Objection
8 overruled.

9 A. In my intent to improve my
10 situation and Zambrano's situation in
11 negotiations with Chevron, I mentioned to
12 Chevron some things like what you were
13 quoting.

14 Q. So as part of your negotiating
15 with Chevron, you overstated your income;
16 is that what you are saying?

17 MR. MASTRO: Objection to form.
18 Misstates his prior testimony.

19 THE SPECIAL MASTER: Just a
20 second. He is asking him, is that what he
21 is saying. It is all right. The question
22 is fine.

23 A. I'm stating that in the face of
24 a possible future negotiation I overstated
25 regarding the income or the money that I

1 A. GUERRA BASTIDAS

2 was receiving at that time.

3 Q. Did you also overstate the
4 income of your son in those same
5 discussions?

6 A. I don't specifically recall
7 having touched upon the issue of my son's
8 income.

9 Q. Do you remember telling anyone
10 for Chevron or anybody in those
11 negotiations that your son in Ecuador was
12 making \$40,800 a year?

13 A. It is possible that I might
14 have talked about that detail because we
15 were talking generally about many
16 subjects.

17 Q. What did you earn in 2012?

18 A. In 2012, at the end of 2012, I
19 made a report for the purposes of my tax
20 statement, and if I remember correctly in
21 that report I said that I earned \$42,000
22 approximately.

23 Q. In the negotiations with
24 Chevron that led up to your entering into
25 the agreement with them, which we will

1 A. GUERRA BASTIDAS

2 discuss more later, did Chevron ever ask
3 you to show the documents with regard to
4 what you had reported to the SRI about
5 your income in 2012?

6 A. What I do recall specifically
7 is that I gave to one of Chevron's
8 representatives a copy of the original
9 document which stated my income and the
10 payment of taxes to my government in the
11 amount of approximately \$3,000.

12 Q. In April of 2012 you entered
13 into -- you made some approaches --

14 THE SPECIAL MASTER: Now you
15 are changing your year. Are you meaning
16 to?

17 MR. VESELKA: Yes, sir.

18 THE SPECIAL MASTER: Go ahead,
19 sorry.

20 Q. Going back to April of 2012 you
21 made some approaches to Chevron to see if
22 they would want to make payments to
23 influence the final -- excuse me, let me
24 start over.

25 In April of 2012 you made

1 A. GUERRA BASTIDAS

2 approaches to Chevron about the potential
3 of helping them get Mr. Zambrano to meet
4 with them; is that correct?

5 MR. MASTRO: Objection to form.

6 THE SPECIAL MASTER: Go ahead
7 and answer, if you can.

8 A. In April of 2012 and with
9 Mr. Zambrano's authorization I tried to
10 seek contact with Chevron in order to talk
11 specifically about Mr. Zambrano's
12 predisposition to tell the truth regarding
13 the judgment.

14 Q. What was the last -- when had
15 been the last time you had made any
16 approaches to Chevron with regard to the
17 Lago Agrio litigation, the Aguinda
18 litigation, before April of 2012?

19 A. The last and previously
20 immediate approach that I had with Chevron
21 regarding the Aguinda versus Chevron case,
22 and before April of 2012, was
23 approximately between August and November
24 of 2010.

25 Q. So since the sentencia or

1 A. GUERRA BASTIDAS

2 judgment was issued in February of 2011
3 you had not been approached by anyone on
4 behalf of Chevron before April of 2012; is
5 that correct? The judgement is in
6 February of 2012.

7 THE SPECIAL MASTER: I know
8 exactly when the judgment was.

9 MR. MASTRO: Objection to form.

10 THE SPECIAL MASTER: It is your
11 question that is troublesome to me.

12 You have an assumption in your
13 question. First of all, the previous
14 question had to do with his approaches to
15 Chevron on behalf of Mr. Zambrano. Now
16 your question seems to turn everything
17 around and says -- is talking about
18 Chevron's approach to him.

19 MR. VESELKA: I will make it
20 clear, but that's right.

21 THE SPECIAL MASTER: Then make
22 it clear. Because in this sequence it is
23 very unclear.

24 Q. Had anyone on behalf of Chevron
25 made any approach to you with regard to

1 A. GUERRA BASTIDAS

2 anything having to do with the Aguinda
3 litigation or this case after the
4 sentencia was issued in February 2011 and
5 before April of 2012?

6 A. No, at no time did people from
7 Chevron seek me. I made contact with
8 people from Chevron starting on April
9 2012.

10 Q. I want to go through and ask
11 you about all the different people you met
12 with or talked with at different times.

13 MR. VESELKA: But I need to,
14 for purposes of this case, be careful.
15 There are certain people that are referred
16 to not by name, and I need to confirm that
17 Mr. Guerra knows to refer to them by the
18 code name. So I'm going to try to ask if
19 he knows --

20 THE SPECIAL MASTER: Wait one
21 second. Isn't the way to deal with this
22 just to seal that portion of the
23 transcript? I assume he is allowed to use
24 the real names of John Doe or Jane Doe or
25 whatever. Why don't we just seal the

1 A. GUERRA BASTIDAS

2 portion, to make it easier, why don't we
3 just seal that portion of the transcript
4 and limit it to counsel.

5 MR. MASTRO: The names have
6 been limited to U.S. counsel. You know
7 the names.

8 MR. VESELKA: It is very
9 specific people, only very specific
10 people. If we have to do that on some
11 portion, I'm going to try to do it where
12 we have a portion on that. I'm trying to
13 ask if I can keep portions that wouldn't
14 have to be sealed like that by using the
15 name Doe 1 and Doe 2 and all I'm trying to
16 establish now is if he knows who I would
17 mean by Doe 1 or Doe 2.

18 MR. CLAYMAN: He does not know.

19 MR. MASTRO: About those
20 denominations, Doe 1 and 2. I believe we
21 should confirm that everyone in this room
22 as lawyers are entitled to know the names.

23 THE SPECIAL MASTER: Well, I
24 don't know what the names are and I don't
25 know who they are, but I don't need to, I

1 A. GUERRA BASTIDAS

2 assume, for purposes of my mission.

3 MR. MASTRO: The suggestion
4 that the portion of the record be sealed
5 and limited only to those individuals who
6 are allowed to know that information,
7 that's U.S. lawyers on the other side.

8 THE SPECIAL MASTER: Whatever
9 you guys want. However you folks want to
10 handle it is fine with me.

11 MR. VESELKA: I want to have as
12 small a portion of the record having to be
13 sealed as possible. So I want to wait and
14 see what portion comes up where we need to
15 do that. So I don't want to agree in
16 advance everything. If and when he gets
17 to somebody on that, then we will be able
18 to know.

19 THE SPECIAL MASTER: But I
20 don't understand, how are you going to
21 find out whether he knows the underlying
22 name of John Doe without uttering the
23 underlying name John Doe?

24 MR. MASTRO: Another way to
25 possibly deal with this is to take a short

1 A. GUERRA BASTIDAS

2 break and let him know who Doe 1 and Doe 2
3 are so that he can answer the questions as
4 Doe 1 and 2. But he didn't know about the
5 applications for them to be Doe 1 and Doe
6 2.

7 THE SPECIAL MASTER: I see.

8 MR. GOMEZ: Excuse me, are we
9 off the clock?

10 THE SPECIAL MASTER: This
11 should be counting against examining
12 counsel's time. And the witness is in the
13 chair, you will notice.

14 MR. GOMEZ: I know. We really
15 should excuse him.

16 THE SPECIAL MASTER: I don't
17 think so.

18 MR. VESELKA: I would like, in
19 order to have as little as possible
20 sealed, if he could know how to say Doe 1
21 and Doe 2.

22 THE SPECIAL MASTER: Why don't
23 you go through all the other names first
24 and then tell us that you are about to do
25 those two and we will begin the sealing.

1 A. GUERRA BASTIDAS

2 Then to the extent -- then we can unseal
3 anything that is oversealed. How is that?

4 MR. MASTRO: Your Honor, I was
5 also suggesting another way to do this is
6 to break, I haven't spoken to the witness
7 on breaks before, but just for this
8 limited purpose tell him who Doe 1 and Doe
9 2 are so that he can use Doe 1 and 2
10 answering the questions.

11 THE SPECIAL MASTER: It is up
12 to you.

13 MR. VESELKA: That would be
14 fine with me, if he is capable of doing
15 that. So that way when we --

16 THE SPECIAL MASTER: Fine.

17 MR. MASTRO: Why don't we do
18 that.

19 THE SPECIAL MASTER: Do you
20 want to break now?

21 MR. VESELKA: Just for a short
22 one on that. Because I'm worried if I
23 start going through who did you meet with
24 next and it comes out.

25 THE SPECIAL MASTER: I see.

1 A. GUERRA BASTIDAS

2 THE VIDEOGRAPHER: Off the
3 record, 11:08 a.m.

4 (Recess taken.)

5 THE VIDEOGRAPHER: We are going
6 back on the record at 11:17 a.m.

7 BY MR. VESELKA:

8 Q. Mr. Guerra, you have now been
9 informed of how to refer to certain people
10 by the --

11 THE SPECIAL MASTER: The
12 designation.

13 Q. -- designation Doe 1 or Doe 2?

14 A. Yes.

15 Q. Thank you.

16 Going back to your approach to
17 Chevron in April of 2012, who did you
18 approach first?

19 A. I remember having previously
20 talked with one of Chevron's attorneys
21 very lightly and the same day, the same
22 day with Doe 2, and with Doe 2 I did go
23 into details as to the intent of
24 communicating with people from Chevron and
25 I was authorized -- I was authorized to do

1 A. GUERRA BASTIDAS

2 so by Mr. Zambrano.

3 MR. MASTRO: Just for purposes
4 of the record, the translator, in any
5 reference to Doe 1 or Doe 2, is going to
6 use the male reference. Nothing is to be
7 drawn from that one way or the other, just
8 the translations and references to gender
9 will all be to male.

10 THE SPECIAL MASTER: Or female,
11 but they in fact may refer to females?

12 MR. MASTRO: Correct. But he
13 will use male throughout for both Doe 1
14 and Doe 2.

15 Q. You answered that you first
16 talked with one of Chevron's lawyers
17 briefly. Who was that?

18 THE SPECIAL MASTER: Actually,
19 he said "lightly."

20 MR. VESELKA: "Lightly."

21 A. I greeted and I spoke to
22 lightly with Mr. Enrique Carvajal who I
23 ran into in the court offices.

24 Q. The court offices in Sucumbios?

25 A. Yes.

1 A. GUERRA BASTIDAS

2 Q. Why were you in the court
3 offices in Sucumbios?

4 A. In that location, aside from
5 the Sucumbios court offices being there,
6 there are also the courtrooms that make up
7 the Sucumbios court, the various
8 courtrooms, and I visited regarding some
9 issue from a client.

10 Q. And what did you say to
11 Dr. Carvajal?

12 A. I told Dr. Carvajal lightly
13 that I had a story to tell Chevron
14 regarding the drafting of the judgment at
15 the trial court level.

16 Q. What did Dr. Carvajal say to
17 you?

18 A. He nodded. It surprised him.
19 And he stated that he would send me some
20 message through Doe 2.

21 Q. Do you know of Dr. Carvajal
22 being involved or aware of any of the
23 contacts you had made to Chevron back in
24 2009 or 2010 before the judgment was
25 issued?

1 A. GUERRA BASTIDAS

2 A. I don't know about that. I
3 don't know. I never asked.

4 Q. So Dr. Carvajal referred you to
5 go talk to Doe 2?

6 A. No.

7 THE SPECIAL MASTER: Counsel,
8 he said it just the other way around.

9 Q. So with whom did you have
10 contact next?

11 A. With Doe 2.

12 Q. How did that come about? Did
13 Doe 2 call you or did Doe 2 come by and
14 see you? Tell us how that contact
15 occurred.

16 A. The city of Lago Agrio, it is
17 small. It is not very big. Almost all
18 know each other. I personally went to
19 visit Doe 2's office and among other
20 comments I told them that I had ran into
21 Dr. Carvajal and I told Doe 2 the contents
22 of my conversation with Dr. Carvajal, and
23 I additionally told Doe 2 regarding the
24 motivation or the aim to talk to Chevron
25 in order to tell the truth regarding the

1 A. GUERRA BASTIDAS

2 judgment and that I was doing so
3 specifically authorized by Mr. Zambrano.

4 Q. And what did Doe 2 say to you?

5 A. From what I can recall, Doe 2
6 said that he would somehow get in touch
7 with Chevron's representatives in order to
8 make it known in the future about the
9 possibility of meetings in case there were
10 any interest in doing so.

11 Q. Anything else you can remember
12 about that conversation with Doe 2?

13 A. Not specifically in that
14 conversation, but I must say that Doe 2
15 knew about my involvement before the
16 judgment and following the judgment.

17 Q. And was that because of
18 previous conversations you had had with
19 Doe 2?

20 A. Yes, I had -- I have talked
21 with them regarding this many times.

22 Q. What do you remember your
23 telling Doe 2 about your involvement
24 before this conversation in April of 2012?

25 A. I recall having told him

1 A. GUERRA BASTIDAS

2 regarding all of my involvement.

3 Q. What involvement was that that
4 you told him?

5 A. Specifically having been
6 involved or having written the court
7 orders in the Chevron case during the time
8 that Mr. Zambrano was the judge, and also
9 I told him in a timely manner that I was
10 involved in observing in reviewing and
11 doing some sort of light touch-up work on
12 the judgment before it was issued and
13 published.

14 Q. Going back to your meeting in
15 the offices of Doe 2 in April of 2012, can
16 you tell us any more about the
17 conversation about which either of you
18 said?

19 A. Doe 2 and I had contact -- had
20 known each other for many years and
21 because of that, in that city and under
22 those circumstances we talked about
23 several issues, but specifically regarding
24 what has been stated here I don't recall
25 having informed him of any substantive

1 A. GUERRA BASTIDAS

2 issue.

3 Q. Did you raise the issue of your
4 hope to being financially rewarded for
5 this participation?

6 A. I don't recall specifically,
7 but I considered that because it was
8 obvious that I also expected some sort of
9 economic benefit.

10 Q. How was that conversation left?
11 Who was going to do what next?

12 A. Doe 2 was going to talk with
13 Chevron's representatives in order to tell
14 them specifically that Mr. Zambrano,
15 through me, was willing to say that he had
16 not written the judgment, that it was
17 written by the plaintiffs, and obviously
18 to talk about and to negotiate regarding
19 that possibility.

20 Q. So with whom did you have
21 contact next with regard to this matter?

22 A. Doe 2 sometime later, days or
23 weeks later, Doe 2 put me in touch with
24 Mr. Rivero and Mr. Akerman whom identified
25 as Chevron's representatives because

1 A. GUERRA BASTIDAS

2 that's how they -- that's what they said.

3 Q. When you say Doe 2 put you in
4 touch with these representatives, how did
5 Doe 2 do that? Was it a meeting? Was it
6 a phone call? Was it an e-mail?

7 A. In order to have the first
8 meeting between myself and Mr. Rivero and
9 Mr. Akerman, Doe 2 spoke with me over the
10 phone, and set up the meeting which took
11 place -- the physical meeting which took
12 place in a hotel in Quito where
13 Mr. Akerman and Mr. Rivero were staying,
14 and in the meeting it included
15 Mr. Akerman, Mr. Rivero, Doe 2 and myself.

16 Q. That meeting occurred on June
17 3rd or 4th of 2012; is that correct?

18 A. Yes, around those dates, from
19 what I can recall.

20 Q. Do you remember which date
21 specifically?

22 A. Specifically June 3rd.

23 Q. Thank you.

24 So you had one or more than one
25 conversations with Doe 2 about setting up

1 A. GUERRA BASTIDAS

2 the meeting on June 3rd?

3 A. I had some phone conversations
4 with Doe 2, not with the aim of setting up
5 the conversation or the first meeting with
6 Chevron's representatives, but for the
7 purpose of coordinating or to look into
8 the possibility of, during that
9 conversation, having Mr. Zambrano
10 intervene fundamentally.

11 Q. Do you remember any discussions
12 with Doe 2 about the possibility of
13 providing information to the Attorney
14 General's Office?

15 MR. MASTRO: Objection to form.

16 THE SPECIAL MASTER: Overruled.

17 A. From what I can recall, it was
18 a conversation in which Doe 2 referred to
19 the fact that Chevron possibly would bring
20 or file some action or motion against the
21 State through the Office of the Attorney
22 General and definitely given, because of
23 that circumstance and in the future,
24 definitely the truth of the facts of the
25 case would be known.

1 A. GUERRA BASTIDAS

2 Q. Now, your wife had suggested to
3 you that it would be better to talk to
4 Chevron because that way you might be able
5 to achieve some benefits for you and your
6 family, correct?

7 MR. MASTRO: Objection to form.

8 THE SPECIAL MASTER: Why don't
9 you rephrase the question.

10 Q. Did your wife suggest to you
11 that you should be talking to Chevron in
12 order to try to achieve some benefits for
13 your family?

14 MR. MASTRO: Objection to form.

15 THE SPECIAL MASTER: Overruled.

16 A. My wife has never been aware
17 through me nor has she ever made any
18 suggestions to her husband regarding
19 issues that are not exclusively those
20 pertaining to the family and the home.

21 Q. Do you remember discussing with
22 Doe 2 in one of the phone calls before the
23 June 3rd meeting that what this was about
24 was about getting some benefit for you?

25 A. With Doe 2 we spoke before June

1 A. GUERRA BASTIDAS

2 3rd on several occasions, and yes,
3 obviously we spoke about some financial
4 benefit.

5 Q. In one of your conversations
6 with Doe 2 you told Doe 2 that you had
7 seen or touched up a draft of the
8 judgment -- that you had received a draft
9 of the judgment on a flash drive, correct?

10 MR. MASTRO: Objection to form,
11 and best evidence is whatever transcript
12 he has to put before the witness.

13 THE SPECIAL MASTER: Overruled.

14 A. I told the detail to Doe 2
15 because that's how I remembered it.
16 That's how I remembered it.

17 Q. But you were never able to find
18 that flash drive with that draft of the
19 judgment on it, were you?

20 A. I remembered having received
21 the draft judgment in a flash drive in the
22 city of Quito.

23 MR. VESELKA: I'll object,
24 nonresponsive.

25 THE SPECIAL MASTER: I think it

1 A. GUERRA BASTIDAS

2 is the beginning of a real answer. Go
3 ahead. So you are allowed to follow up.

4 Q. But you have been unable to
5 find any flash drive that has the draft of
6 the judgment on it, correct?

7 A. Later on at the time when it
8 came to provide the first sworn
9 declaration that I have given, as I
10 remembered things regarding all the issues
11 that happened, I understood that the
12 memory of the -- what is it called -- the
13 memory flash -- of the flash drive was not
14 correct, that the judgment or the draft
15 judgment, I noticed it or I saw it on a
16 laptop that was provided to me in Lago
17 Agrio and which I saw inside
18 Mr. Zambrano's residence, and that that
19 computer belonged to Mr. Fajardo.

20 Q. The memory that you are
21 describing now that came to you later when
22 you were working on the first declaration,
23 you say you saw a draft of the judgment on
24 a laptop that you saw in Mr. Zambrano's
25 home; is that what you said?

1 A. GUERRA BASTIDAS

2 A. That's what I said, yes.

3 Q. And you are referring to a home
4 in Lago Agrio?

5 A. At the residence of
6 Mr. Zambrano in Lago Agrio, in the city of
7 Lago Agrio.

8 Q. But didn't you say before you
9 had seen the draft judgment on a flash
10 drive that you got in Quito? That's
11 inconsistent, correct?

12 MR. MASTRO: Objection to form.

13 THE SPECIAL MASTER: If you can
14 understand it, you can answer.

15 A. I did understand. I can
16 answer.

17 Initially I said that I
18 remember seeing the draft judgment in a
19 memory -- in a flash drive that
20 Mr. Zambrano had given me in Quito, but I
21 amend -- I amend this issue in the sense
22 that actually the draft judgment was in a
23 computer that was provided to me and that
24 I used in Nueva Loja, Lago Agrio.

25 Q. How long did you work on your

1 A. GUERRA BASTIDAS

2 touch-up of the judgment on that laptop?

3 A. I worked a few hours over two
4 days only.

5 Q. And were you in Lago Agrio that
6 entire time?

7 A. Yes.

8 Q. Where were you -- where were
9 you staying in Lago Agrio?

10 THE SPECIAL MASTER: Excuse me,
11 you mean where were you staying in Lago
12 Agrio or where did you do the work?

13 Q. Let's ask about where you were
14 staying in Lago Agrio first.

15 A. At that time, around those
16 dates, in Lago Agrio, I would spend -- if
17 I was going to be only a very short time
18 in Lago Agrio I would spend the night in
19 the home of Dr. Fernando Alban, a judge
20 who is a friend of mine; but if my stay in
21 Lago Agrio would be longer, two, three or
22 four nights, I would stay at the residence
23 of Mr. Giuseppe Barna located five
24 kilometers from the center of town.

25 Q. In which place were you staying

1 A. GUERRA BASTIDAS

2 at the time you say you were touching up
3 the draft judgment?

4 A. In Dr. Alban's apartment.

5 Q. And is that where you actually
6 did the work you say you did on touching
7 up the draft judgment?

8 A. No, I did that in the apartment
9 or residence of Mr. Zambrano. He wouldn't
10 allow me to take the computer elsewhere.

11 Q. And how long did it take you to
12 do the work of this touch-up you say you
13 did?

14 THE SPECIAL MASTER: Asked and
15 answered. Do you want me to read it to
16 you?

17 MR. VESELKA: He said some
18 hours and I was trying to get a little
19 more specific.

20 THE SPECIAL MASTER: That you
21 can do. Actually, he said some hours over
22 two days.

23 Q. How many hours each day?

24 A. From what I can recall, I spent
25 on that first day four or five hours on

1 A. GUERRA BASTIDAS

2 the draft judgment. It was a full but
3 quick reading of the totality of the
4 document. And then on the second day I
5 did some -- I made some small changes
6 regarding some terms regarding more to
7 legal terms and terms related to the
8 environment, to environmental law, and
9 that was it.

10 Q. Do you know what days those
11 were that you were working on that?

12 A. I don't have in mind, I don't
13 remember exactly these dates, but my
14 presence in Lago Agrio, I was there
15 approximately between two and three weeks
16 before the date the judgment was issued.

17 Q. You said that on the second day
18 you made some changes regarding terms.
19 How long did you spend working on making
20 those changes on the second day?

21 A. From what I can recall, no more
22 than three or four hours maximum.

23 Q. Was anybody else there with you
24 while you did this?

25 A. No.

1 A. GUERRA BASTIDAS

2 Q. Either day?

3 A. While I reviewed that first day
4 or the second day when I was working
5 there, there was nobody else present
6 there, but I had maintained phone contact
7 with Mr. Zambrano. I did so -- also had
8 contact with Dr. Alban and with
9 Mr. Fajardo.

10 Q. All of those are phone contacts
11 you are describing with Dr. Alban and
12 Mr. Fajardo?

13 A. Yes.

14 Q. Tell us what was said in any of
15 your phone conversations with Dr. Alban.

16 A. With Dr. Alban I talked about
17 if I was going to go out for lunch.
18 "Albertito, is this taking long? Is this
19 going to take you a while? Any worries?
20 Any concerns?"

21 With Mr. Fajardo, "Alberto, is
22 everything all right? Do you need
23 something?" "Yes, I need a memory aid
24 because this issue of the essential errors
25 is complicated, it is obscure for me, and

1 A. GUERRA BASTIDAS

2 then solving this, well, there's no time
3 for that. I would have to review the
4 trial, possibly dozens or hundreds of
5 court files. You must have a compilation
6 or compressed information. If you have
7 that, give it to me because this is
8 confusing. This is a Tower of Babel."
9 "Yes, Alberto, we are going to do that.
10 We will do everything possible. You can
11 count on all the help that I can provide."

12 That was the style of the
13 conversations.

14 Q. And did you receive the memory
15 aid while you were there those two days
16 working on the draft judgment?

17 A. From what I can recall, I
18 received the memory aid in the late
19 afternoon or night of the first day.

20 Q. How did you receive it?

21 A. I have stated, because that's
22 how I remembered it, having received it
23 via e-mail, because that's how I remember
24 it.

25 Q. On what device could you get

1 A. GUERRA BASTIDAS

2 your e-mail while you were in Lago Agrio
3 on those two days?

4 A. At that time in Lago Agrio
5 there were places with computers that they
6 had the e-mail service, Internet service.

7 Q. Internet cafe?

8 A. A kind of, yes. In Ecuador
9 they are called net cafes.

10 Q. And on what e-mail address did
11 you receive it?

12 A. At the e-mail that I had at the
13 time, AlbertoGuerraBastidas@hotmail,
14 GuerraAlberto@hotmail, possibly
15 AlbertoGuerra54@hotmail. I have not had
16 other accounts.

17 Q. But you don't remember on which
18 account you received that?

19 A. No.

20 Q. How did you travel to Lago
21 Agrio on the days where you say you were
22 working on the draft judgment?

23 A. Starting on the date when I was
24 dismissed of my position as judge, most of
25 my trips to Lago Agrio were over land.

1 A. GUERRA BASTIDAS

2 And on the dates that you are referring
3 to, those dates, that was no exception, it
4 was also over land.

5 Q. So you drove yourself?

6 A. Generally I never went in my
7 car from Quito to Lago Agrio, I got around
8 in the so-called -- well, in the vehicles
9 of the public transportation.

10 Q. Which public transportation
11 would you use to get to Lago Agrio in
12 those days?

13 A. There were several companies
14 that provide public transportation from
15 Quito to Lago Agrio, but the main ones or
16 the ones that have the most trips is the
17 transportation cooperative, Banos, the
18 Loja transportation cooperative, and the
19 Putumayo transportation cooperative.

20 For my travels, I would use a
21 vehicle from the cooperative, whatever
22 vehicle was the first one available.

23 Q. And that's how you came back
24 from Lago Agrio after doing the work you
25 say you did on the draft judgment as well?

1 A. GUERRA BASTIDAS

2 A. Yes, from what I can recall,
3 yes, I returned over land.

4 Q. How long were you in Lago Agrio
5 in total, including the time when you
6 spent these two days you say you worked on
7 the draft judgment?

8 MR. MASTRO: Objection to form.

9 THE SPECIAL MASTER: Overruled.

10 A. I don't recall specifically how
11 many days I was in Lago Agrio, for the
12 purpose, having traveled, that detail.

13 Q. Did you do any other work while
14 you were in Lago Agrio on that trip?

15 A. No.

16 Q. Did you meet with anyone in
17 person on that trip?

18 A. Yes.

19 Q. Who?

20 A. With Mr. Zambrano, with
21 Mr. Fajardo, with Mr. Alban, with Doe 2,
22 and possibly one or two attorneys,
23 acquaintances of mine.

24 Q. In the meetings with Dr. Alban,
25 was anybody else present?

1 A. GUERRA BASTIDAS

2 A. No.

3 Q. Did you tell Dr. Alban what you
4 were doing?

5 A. Yes, he knew.

6 Q. What did he say to you about
7 that?

8 THE SPECIAL MASTER: If
9 anything.

10 Q. If anything.

11 A. Dr. Alban was a kind of
12 disciple of mine. He was a younger
13 attorney than I was by some years, and he
14 rather didn't give me advice but he was
15 asking me how are things, how did I see
16 things.

17 Q. And what did you tell him?

18 A. I would tell him about the
19 subject, how things were and what I had
20 seen, what I had done, the way the
21 document was drafted, issues relating to
22 the judges profession.

23 Q. Did you tell him that it was
24 improper for you to be working on that
25 judgment?

1 A. GUERRA BASTIDAS

2 A. I told him I had been invited
3 by Mr. Zambrano to look at the document
4 and to try to, in that document, to do
5 something that would allow to not leave
6 any doubts that it had been written in the
7 court.

8 Q. And did Dr. Alban say anything
9 to you about whether you should or
10 shouldn't be doing that or anything about
11 whether he agreed with it or in any way
12 questioned your activities?

13 MR. MASTRO: Objection to form.

14 MR. VESELKA: Do you think I
15 could make it a little more compound?

16 MR. MASTRO: Maybe a little
17 more compound, but not much more. It has
18 kind of been asked and answered. You
19 asked him what Alban said. So it is both
20 asked and answered and compound.

21 THE SPECIAL MASTER: He is
22 going to rephrase the question.

23 Q. Did Dr. Alban in any way
24 suggest that you should not be doing that
25 work or that you should report anything to

1 A. GUERRA BASTIDAS

2 the authorities?

3 THE SPECIAL MASTER: Same
4 problem.

5 MR. MASTRO: Yeah, same
6 objection.

7 MR. CLAYMAN: One at a time.

8 Q. Did Dr. Alban report what
9 Mr. Zambrano was asking you to do to any
10 of the authorities?

11 A. Excuse me, could you please
12 repeat the question? Or maybe I didn't
13 understand the interpretation.

14 Q. Did Dr. Alban suggest to you
15 that you should report what Mr. Zambrano
16 was asking you to do to any authorities?

17 A. No, at no time.

18 Q. Did he in any way suggest that
19 you should not be doing that work?

20 MR. MASTRO: Objection to form.
21 Asked and answered.

22 THE SPECIAL MASTER: I will let
23 it go. It is improper, but I will let it
24 go.

25 THE WITNESS: Do I answer?

1 A. GUERRA BASTIDAS

2 THE SPECIAL MASTER: Yes.

3 MR. MASTRO: Do you want to
4 repeat the question?

5 THE WITNESS: Please.

6 MR. MASTRO: The court reporter
7 will read it.

8 (The record was read.)

9 THE WITNESS: Do I answer?

10 THE SPECIAL MASTER: Yes.

11 A. No, Dr. Alban never suggested
12 what I'm being asked.

13 MR. VESELKA: I think we have
14 to change the tape.

15 THE VIDEOGRAPHER: We are going
16 off the record, 12:24 p.m. This is the
17 end of disk two in the deposition of
18 Alberto Guerra Bastidas.

19 (Luncheon recess: 12:24 p.m.)

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1 A. GUERRA BASTIDAS

2 A F T E R N O O N S E S S I O N

3 1:22 p.m.

4 A L B E R T O G U E R R A

5 B A S T I D A S, resumed.

6 THE VIDEOGRAPHER: We are going
7 back on the record at 1:22 p.m. This is
8 the beginning of disk three in the
9 deposition of Alberto Guerra Bastidas.

10 CONTINUED EXAMINATION

11 BY MR. VESELKA:

12 Q. Good afternoon, Mr. Guerra. We
13 were discussing before the lunch break
14 meetings that you had while you were in
15 Lago Agrio some weeks before the judgment
16 issued in February of 2011, and you talked
17 about your conversations with Dr. Alban.

18 Is there anything more you
19 remember about your conversations with Dr.
20 Alban during that period relating to the
21 work you were doing -- you say you were
22 doing on the touching up the draft
23 judgment?

24 MR. MASTRO: Objection to form,
25 asked and answered.

1 A. GUERRA BASTIDAS

2 THE SPECIAL MASTER: If he
3 remembers anything more than he had
4 already testified to before the lunch
5 break, he can answer, but otherwise he can
6 just say no.

7 A. With Dr. Alban we permanently
8 and constantly were talking on the phone
9 either personally -- either on the phone
10 or personally. He is a judge and
11 occasionally he would require my guidance,
12 my orientation, but I don't recall
13 specifically having talked with Dr. Alban
14 specifically about the Chevron case aside
15 from what I have already stated.

16 Q. Let's turn now to your
17 conversations or meetings on that trip
18 with Pablo Fajardo. How many meetings did
19 you have with him?

20 A. From what I can recall, I had
21 only one meeting.

22 Q. When in the period of days
23 while you were there did that meeting
24 occur?

25 A. That meeting took place when I

1 A. GUERRA BASTIDAS

2 first arrived for the purpose of providing
3 me the computer in the house, inside the
4 house of Mr. Zambrano or in the terrace
5 level of the residence of Mr. Zambrano.

6 Q. How long was your meeting with
7 Mr. Fajardo?

8 A. A few minutes.

9 Q. Was anybody else present?

10 A. Mr. Zambrano.

11 Q. What did you say to
12 Mr. Fajardo?

13 A. I greeted Mr. Fajardo and I
14 received from him the laptop and I stated
15 I would review the document as calmly as
16 possible and as thoroughly as possible.
17 That was practically the full
18 conversation.

19 Q. What did Mr. Fajardo say to
20 you?

21 A. For me to do it, he replied to
22 my greeting, he gave me the device and he
23 said that if I needed any help or support,
24 to call him on the phone.

25 Q. What did Mr. Zambrano say at

1 A. GUERRA BASTIDAS

2 that meeting?

3 A. Mr. Zambrano limited himself to
4 opening the door into his residence. He
5 set up a chair for me. He said for me to
6 feel comfortable and to continue working,
7 I have to go to the office. See you
8 around noon for lunch, which indeed
9 happened. And then in the afternoon we
10 will see each other -- in the evening so
11 we can have dinner, and that's what
12 happened.

13 Q. Can you remember anything else
14 that was said before you started your
15 work?

16 A. I don't recall anything else
17 specifically.

18 Q. Had you talked with Mr. Fajardo
19 about this project before your meeting
20 upon your arrival?

21 A. We had talked previously
22 regarding the possibility of having the
23 plaintiffs draft the judgment.

24 Q. When was that conversation?

25 A. That conversation takes place

1 A. GUERRA BASTIDAS

2 between August to October, approximately,
3 in 2010.

4 Q. Where?

5 A. The city of Quito.

6 Q. Was this a phone call or a face
7 to face meeting?

8 A. Chevron, through Doe 2, had
9 rejected the possibility of an encounter
10 between Zambrano and Chevron, and because
11 of this Zambrano had authorized me to talk
12 to the plaintiffs regarding the
13 possibility of having them draft the
14 judgment in exchange for giving
15 Mr. Zambrano at least \$500,000.

16 And given these circumstances I
17 spoke over the phone with Mr. Zambrano.
18 We set up a meeting in Quito, personal
19 meeting. This meeting takes place on
20 December 6th and Ria Coca in Quito, and
21 that's when I tell him, making the full
22 comments, the entire offer that I
23 mentioned seconds ago.

24 MR. VESELKA: I object,
25 nonresponsive.

1 A. GUERRA BASTIDAS

2 THE SPECIAL MASTER: He did in
3 the course of this give you two
4 conversations, one is a phone
5 conversation, another one is a meeting.
6 So if I strike this and you ask it again
7 and if you want to know whether he had a
8 phone conversation or a meeting, it is
9 going to be objected to as asked and
10 answered.

11 Wait, if we are going to have a
12 lengthy colloquy, the witness probably
13 ought to leave the room.

14 MR. MASTRO: He should leave
15 for this.

16 THE SPECIAL MASTER: Let's ask
17 the witness to leave.

18 THE VIDEOGRAPHER: Off the
19 video record, 1:34 p.m.

20 (Witness departs the room.)

21 THE SPECIAL MASTER: Okay,
22 Mr. Mastro, what is it you want to say?

23 MR. MASTRO: Your Honor, in
24 reading the answer, it is obvious he is
25 answering the question referring to

1 A. GUERRA BASTIDAS

2 speaking on the phone to Mr. Fajardo and
3 then meeting with him in person, but the
4 name Zambrano appears, I'm not sure
5 whether that is the name he said or
6 whether he just misspoke. That's why I
7 asked him to leave the room.

8 But it is obvious he is
9 answering the question and referring to
10 Mr. Fajardo in terms of the phone call and
11 the meeting. So perhaps the record needs
12 to be clarified that way. But he did
13 answer the question.

14 MR. VESELKA: He answered the
15 question about dealings with -- he had
16 conversations with Mr. Zambrano and the
17 question had been about a conversation
18 with Mr. Fajardo.

19 THE SPECIAL MASTER: I think if
20 you keep reading the answer you will see
21 he is talking about, on this one,
22 Mr. Mastro is right, he is obviously
23 talking about Fajardo.

24 MR. VESELKA: I don't believe
25 so. He is saying he went back through a

1 A. GUERRA BASTIDAS

2 whole history with Mr. Zambrano --

3 THE SPECIAL MASTER: Wait a
4 second. Let me go back to it. Let me go
5 back to the whole answer.

6 I think we need clarity. We
7 need clarity from the witness about this.
8 Let's get him back in.

9 MR. MASTRO: If he has read his
10 answer, I think he will realize --

11 THE SPECIAL MASTER: Let's have
12 it read and let's see what he says.

13 MR. VESELKA: Can I just ask
14 him, did he mean this or that? Won't that
15 be quicker?

16 THE SPECIAL MASTER: He is
17 going to have to have the answer read
18 back, did you mean Zambrano, phone call
19 with Zambrano or a phone call with
20 Fajardo, my question was about Fajardo,
21 that's what you can say and that's what
22 you ought to do.

23 Let's get him.

24 (Witness returns to the room.)

25 THE VIDEOGRAPHER: Back on the

1 A. GUERRA BASTIDAS

2 record, 1:37 p.m.

3 BY MR. VESELKA:

4 Q. The translator is going to read
5 your answer back to you and then I'm going
6 to ask a follow-up question.

7 THE SPECIAL MASTER: Why don't
8 you have the translator read the question
9 and the answer and then you can have a
10 follow-up. I think that is clearer. I
11 think he is going to have to back up
12 and -- you know, the easier way to do it,
13 read the question and then Mr. Veselka is
14 going to say everybody agrees that the
15 question related to the content of a phone
16 conversation or a meeting with
17 Mr. Fajardo, and here is your answer, and
18 did you mean in this answer Fajardo or
19 Zambrano. Let's do it that way.

20 MR. MASTRO: It starts at
21 87-14, your Honor, that's the first
22 reference to the name in the question.

23 THE SPECIAL MASTER: I
24 understand. But the translator can tell
25 the witness that everybody agrees that the

1 A. GUERRA BASTIDAS

2 question was about Fajardo. So the
3 question to you now is, in your answer
4 about a phone call, did you mean Zambrano
5 or Fajardo.

6 (Answer reread to the witness
7 by interpreter.)

8 Q. Did you mean to say the phone
9 conversation was with Mr. Zambrano or with
10 Mr. Fajardo?

11 A. With Mr. Fajardo. I'm mistaken
12 there. I'm referring to Mr. Fajardo.

13 THE SPECIAL MASTER: Just to
14 follow up, and as to the meeting, are you
15 referring to Mr. Fajardo or Mr. Zambrano?

16 THE WITNESS: I held a meeting
17 with Mr. Fajardo.

18 Q. And you say that meeting
19 occurred on December 6th, 2010? Oh,
20 that's right, I'm sorry. I'll withdraw
21 that question.

22 MR. MASTRO: It is a street.
23 December 6th is a street.

24 Q. The 6th of December is the name
25 of a street in Quito, correct?

1 A. GUERRA BASTIDAS

2 A. Yes.

3 Q. When you used it in your
4 answer, were you referring to meeting on
5 that street?

6 A. The meeting takes place at the
7 intersection of December 6th and Rio Coca,
8 at the intersection of those two streets.

9 Q. And did this meeting occur --
10 when do you think this meeting occurred,
11 between August and October of 2010?

12 A. There is no possibility of me
13 stating it specifically, but I consider it
14 happened in October or November.

15 Q. Was it before the judge had
16 entered the Autos Para Sentencia?

17 MR. MASTRO: If he recalls.

18 A. From what I can remember, yes,
19 sometime before.

20 Q. At the meeting with Mr. Fajardo
21 at the intersection, were you outside or
22 were you in some office?

23 A. We were outside.

24 Q. Anyone else present in your
25 conversation?

1 A. GUERRA BASTIDAS

2 A. No, only he and I.

3 Q. Did Mr. Fajardo give you
4 anything at this meeting?

5 A. He thanked me profusely for
6 being the link with Mr. Zambrano.

7 Q. Did he give you anything else?

8 A. No, physically, no.

9 Q. What did he say to you?

10 A. In that specific meeting,
11 first, that he was happy with my
12 involvement in this issue. He was excited
13 and grateful for the proposal that I was
14 bringing forth for Mr. Zambrano, and aside
15 from talking about other considerations,
16 about making other considerations
17 regarding this proposal, specifically
18 Mr. Fajardo told me that this decision,
19 that he had informed Mr. Donziger about
20 this decision, that he should know the
21 details regarding this issue and that he
22 should make the decision regarding this,
23 and that later on when Mr. Donziger were
24 in the country he would inform me or
25 together we would all have a conversation,

1 A. GUERRA BASTIDAS

2 all of us.

3 Q. What did you say to Mr. Fajardo
4 in the meeting on the intersection of Rio
5 Coca and the 6th of December?

6 A. I conveyed to Mr. Fajardo
7 regarding the proposal by Mr. Zambrano,
8 essentially and specifically that they
9 draft the judgment in exchange for giving
10 at least \$500,000 to Mr. Zambrano, which
11 is what I mentioned to them, that
12 Mr. Zambrano authorized me to negotiate an
13 amount independently of the amount for
14 him.

15 Q. Did you make a proposal of an
16 amount for you in this conversation?

17 A. No.

18 Q. So Mr. Fajardo was not able to
19 give a final decision at that because he
20 had to get it signed off by others?

21 THE SPECIAL MASTER: You are
22 going to have to rephrase that. He has no
23 knowledge as to whether Mr. Fajardo was
24 able to make a final decision.

25 Q. Mr. Fajardo told you that the

1 A. GUERRA BASTIDAS

2 final decision would have to be made by
3 others, that he could not do it at that
4 meeting, correct?

5 A. Yes, that's how it happened.

6 Q. And you had referred earlier to
7 a phone call to set up this in-person
8 meeting. Do you remember that?

9 A. I remember, yes, but my phone
10 call was to Mr. Fajardo so we could meet
11 and talk.

12 Q. That's what I wanted to get
13 straight. You called Mr. Fajardo to ask
14 if ya'all could meet and talk?

15 A. Yes.

16 Q. Did you have any contact with
17 Mr. Fajardo after the meeting you just
18 described and before seeing him in Lago
19 Agrio on the trip where you say you worked
20 on the draft --

21 THE SPECIAL MASTER: I'm going
22 to object to that question.

23 MR. MASTRO: Objection to form.

24 THE SPECIAL MASTER: You have
25 used the phrase "you say." You don't have

1 A. GUERRA BASTIDAS

2 a jury here. Every witness whose
3 testimony you take is of course saying.
4 It is offensive to witnesses to say that.

5 MR. VESELKA: I don't mean to
6 be offensive, but I mean to be precise,
7 because he is saying this, and I don't
8 want to describe much of this in front of
9 the witness --

10 THE SPECIAL MASTER: Let's not
11 have colloquy. I will leave it to others
12 to make an objection. You don't have a
13 jury here is my point.

14 MR. VESELKA: This testimony
15 might be read to the jury.

16 THE SPECIAL MASTER: I
17 understand that. That's the point, if it
18 is read to the jury, then you can say --
19 it is a form of argumentativeness is my
20 point.

21 MR. CLAYMAN: The term "You
22 have testified this morning" may help you
23 do that this afternoon. Could you do
24 that, rather than "you say"?

25 THE SPECIAL MASTER: Huh?

1 A. GUERRA BASTIDAS

2 MR. CLAYMAN: He has testified.

3 Q. Did you have any meetings with
4 Mr. Fajardo between the conversation in
5 Quito that you just described and the time
6 you arrived at Mr. Zambrano's residence in
7 Lago Agrio as you testified earlier?

8 A. After the conversation that I
9 had with Mr. Fajardo on December 6th at
10 Rio Coca, which was not the first one,
11 previously we had talked several times in
12 person or over the phone, after that I met
13 with him a few days after this meeting.
14 He called me on the phone and he wanted to
15 meet me at Honey Honey, a restaurant on
16 Portugal and Eloy Alfaro streets in Quito
17 at which meeting Mr. Fajardo was there,
18 Mr. Yanza and Mr. Donziger and myself.

19 After this meeting with
20 Mr. Fajardo we met or we saw each other a
21 few more times for the purpose of
22 delivering the \$1,000 they were giving me,
23 and finally the meeting in Lago Agrio when
24 I received the computer, and then at the
25 end of this whole time, a meeting that I

1 A. GUERRA BASTIDAS

2 had with him to May and July more or less
3 of 2011 after the judgment had been
4 issued.

5 After that meeting in 2011 in
6 which I had to talk with American
7 attorneys, friends of Mr. Fajardo, and
8 finally we talked because he called me on
9 the phone, perhaps possibly at the end of
10 the month of May -- strike that -- June or
11 July of 2011. After that we haven't
12 spoken anymore.

13 Q. At the meeting with the
14 American lawyers to which you just
15 referred, you were being interviewed about
16 potentially serving as an expert witness
17 for the defendants, Camacho and Piaguaje,
18 in this case in New York, correct?

19 A. I wasn't told about being an
20 expert witness for the benefit of a
21 specific person. What I was told
22 specifically was that there was a trial
23 starting maybe soon in New York, a trial
24 in which it would be attempted to
25 establish, to determine that the justice

1 A. GUERRA BASTIDAS

2 system in Ecuador is horrible, it is bad,
3 it is corrupt, as well as its
4 administrators.

5 Q. And in that interview you told
6 the North American lawyers that Judge
7 Zambrano had no outside influence on him
8 with regard to the issuance of the
9 judgment, correct?

10 MR. MASTRO: Objection to form.

11 THE SPECIAL MASTER: You may
12 answer.

13 A. From what I can recall, I
14 painted a very pleasant picture regarding
15 the straightforwardness of the Ecuadorian
16 legal system and its administrators, and I
17 focused on providing an account of my
18 involvement as the first judge in the
19 Chevron case, regarding some other aspect
20 of my involvement in legal issues or
21 trials, but I don't recall specifically
22 having talked about Mr. Zambrano and his
23 involvement in the case.

24 Q. Do you remember telling the
25 North American lawyers with whom you met

1 A. GUERRA BASTIDAS

2 that you had been pressured by the
3 Attorney General Borja to dismiss the case
4 at the first meeting of the case in 2003?

5 A. Yes, I told them.

6 Q. And that's true?

7 MR. MASTRO: Objection to form.
8 What's true?

9 Q. To be clear, I will rephrase
10 the question.

11 And it is true that the
12 Attorney General Borja had called you when
13 you were the presiding judge in 2003 and
14 asked you to dismiss the case?

15 A. The Attorney General for the
16 State, Borja, called me the day before the
17 first hearing, so that's October 20th of
18 2003, and he specifically told me on the
19 phone that it was the State, the party
20 that should be sued, and not Chevron, and
21 things of a legal nature that I understood
22 and that he was concretely asking me that
23 at the end of the first hearing I should
24 not order that the case move on to the
25 evidentiary period, but that I should, at

1 A. GUERRA BASTIDAS

2 that moment move the case for the issuance
3 of the judgment. These are legal
4 procedures that at some point I would like
5 to inform you about in my country.

6 Q. And you told the North American
7 lawyers that you refused to do what
8 Mr. Borja asked you to do was an example
9 of the independence and impartiality of
10 the Ecuadorian judiciary, correct?

11 MR. MASTRO: Objection to form.

12 THE SPECIAL MASTER: You may
13 answer, if you understand it.

14 A. I don't recall specifically and
15 concretely that I may have told him that,
16 but I told them about the call from the
17 Attorney General.

18 Q. And did you also tell the North
19 American lawyers that you had received a
20 call from a friend of yours who was a
21 minister in the government, Mr. Colon?

22 A. I told them about that detail,
23 a phone call that took place later, later,
24 after the first hearing.

25 Q. And you told the North American

1 A. GUERRA BASTIDAS

2 lawyers that you understood that that
3 minister was calling on behalf of Chevron,
4 correct?

5 MR. MASTRO: Objection to form.

6 THE SPECIAL MASTER: Overruled.
7 You may answer.

8 A. At the time I had my
9 conversation with the North American
10 lawyers that person was not a minister of
11 anything. He had been a minister years
12 before. He was a minister for energy and
13 mines. And I told the North American
14 lawyers that this individual, this former
15 minister, followed the same line of
16 thinking as the Attorney General of the
17 State.

18 Q. My question was did you tell
19 the North American lawyers that you
20 understood at the time you got the call
21 from the ex-minister that he was acting on
22 behalf of Chevron?

23 MR. MASTRO: Objection to form,
24 asked and answered.

25 THE SPECIAL MASTER: You may

1 A. GUERRA BASTIDAS

2 answer.

3 A. I told the American attorneys
4 that the former minister could share the
5 same line of thinking as the Attorney
6 General, Jose Maria Borja.

7 MR. VESELKA: I object,
8 nonresponsive.

9 THE SPECIAL MASTER: No, now
10 you have gotten the same answer twice, you
11 don't like it, but you have gotten it.

12 MR. VESELKA: He hasn't
13 answered the question.

14 THE SPECIAL MASTER: He said
15 this is what he told the American lawyers.

16 Q. Do you deny telling the North
17 American lawyers, in addition to what you
18 just said, that you understood the
19 ex-minister when he called you was calling
20 on behalf of Chevron?

21 MR. MASTRO: Objection to form.
22 Asked and answered.

23 THE SPECIAL MASTER: You may
24 answer it.

25 A. I don't deny it. From what I

1 A. GUERRA BASTIDAS

2 can recall, I don't deny it, but neither
3 do I confirm it.

4 THE INTERPRETER: If the
5 Special Master allows it, a minute.

6 MR. CLAYMAN: May I have a
7 minute to speak to my client?

8 THE SPECIAL MASTER: Absolutely.

9 THE VIDEOGRAPHER: Off the
10 record, 2:11 p.m.

11 (Discussion off the record.)

12 THE VIDEOGRAPHER: Back on the
13 record, 2:14 p.m.

14 BY MR. VESELKA:

15 Q. Mr. Guerra, do you deny telling
16 the North American lawyers that Judge
17 Zambrano was not pressured or influenced
18 by anyone with regard to his judgment in
19 the Lago Agrio case?

20 MR. MASTRO: Objection to form.

21 THE SPECIAL MASTER: You may
22 answer.

23 A. Not specifically, I don't
24 recall having said it like that. I don't
25 recall having stated it like that, if I

1 A. GUERRA BASTIDAS

2 did. I didn't record the conversation.

3 Q. Do you deny that you told the
4 North American lawyers that Judge
5 Zambrano's actions were clean and
6 appropriate?

7 MR. MASTRO: Objection to form,
8 and asked and answered.

9 THE SPECIAL MASTER: You may
10 answer.

11 A. I don't deny -- well, excuse
12 me, I don't recall several of the issues
13 that were talked about with the American
14 attorneys.

15 Q. You do remember that you did
16 not tell the North American lawyers about
17 your having any improper role with
18 Mr. Zambrano, correct?

19 A. Mr. Zambrano invited me to that
20 meeting so that I would inform the
21 American attorneys on the transparency and
22 straightforwardness of the Ecuadorian
23 legal system. I told them what I knew
24 they wanted to hear. I didn't tell them
25 or I didn't confirm anything that would go

1 A. GUERRA BASTIDAS

2 against those good intentions of theirs.

3 Q. So you were not open and
4 truthful with the North American lawyers,
5 were you?

6 A. I was not open, true. I was
7 not open. I told them what they wanted to
8 hear.

9 Q. After that meeting you had a
10 conversation with Mr. Fajardo where you
11 asked to be paid \$500,000, correct?

12 A. No. Excuse me, for me, no.

13 Q. Okay. So you asked for 500,000
14 in the conversation with Mr. Fajardo
15 afterwards, but that was for Mr. Zambrano
16 and you?

17 MR. MASTRO: Objection to form.

18 THE SPECIAL MASTER: You may
19 answer.

20 A. The conversation with the
21 American attorneys was held a long time
22 after the judgment was issued, perhaps May
23 or July of 2011. There was nothing else
24 to be asked for. The issue of the
25 \$500,000 was a year prior, in 2010.

1 A. GUERRA BASTIDAS

2 Q. Well, I'm getting confused I
3 guess.

4 Did you or did you not ask
5 Mr. Fajardo in the conversation with him
6 after your meeting with the North American
7 lawyers to be paid \$500,000?

8 MR. MASTRO: Objection, asked
9 and answered.

10 THE SPECIAL MASTER: You can
11 answer.

12 A. I didn't ask Fajardo for even a
13 greeting. He offered me \$5,000 for me to
14 make the trip, for the airfare and for my
15 lodging.

16 Q. \$5,000, is that what you just
17 said?

18 A. He offered me \$5,000 for me to
19 come here.

20 Q. To come to that meeting with
21 the North American lawyers?

22 A. For me to come to New York to
23 give testimony regarding the suitability
24 of the Ecuadorian legal system.

25 MR. MASTRO: When you are done

1 A. GUERRA BASTIDAS

2 with this topic, I wanted to raise one
3 thing with the Special Master. I would
4 ask the witness to briefly step out. Just
5 whenever you are done with this line.

6 MR. VESELKA: I was moving on.

7 MR. MASTRO: So if we could
8 just very briefly, it will just be uno
9 momento.

10 THE VIDEOGRAPHER: Off the
11 record 2:22 p.m.

12 (Witness departs the room.)

13 MR. MASTRO: This is page 106,
14 line 13. Again, I think that the
15 transcript says he said Zambrano. I think
16 it is quite clear he meant that Fajardo
17 invited him to the meeting with the
18 American lawyers. So either it is a
19 transcription problem or the witness
20 probably once again says the prior
21 question referred to Zambrano. He may
22 have just used the name but I think it is
23 clear he meant Fajardo invited me to that
24 meeting. So we might want to clarify
25 that. Unless you want to tell us that

1 A. GUERRA BASTIDAS

2 Zambrano was the one who arranged that
3 meeting, which would be --

4 THE SPECIAL MASTER: And that
5 he came here.

6 MR. MASTRO: So I will take the
7 testimony if you want me to and use it to
8 good effect, but I think it was not
9 accurate.

10 MR. VESELKA: All of this was
11 in Ecuador. I understood him to be saying
12 that Zambrano told him to respond to it,
13 which I didn't know. But I think it is
14 worth clearing up, I agree. I agree, we
15 will clear that up.

16 MR. MASTRO: Again, I didn't
17 want to say it in front of the witness,
18 but I think he was referring to
19 Mr. Fajardo setting up the meeting. We
20 had earlier testimony about setting up the
21 meeting.

22 MR. GOMEZ: I need to speak to
23 my co-counsel.

24 THE SPECIAL MASTER: You may.

25 (Discussion off the record.)

1 A. GUERRA BASTIDAS

2 THE VIDEOGRAPHER: Back on the
3 record, 2:27 p.m.

4 BY MR. VESELKA:

5 Q. A moment ago, Mr. Guerra, you
6 testified that Mr. Zambrano was the person
7 that invited you to come meet with the
8 North American lawyers to talk about
9 transparency and straightforwardness of
10 the legal system.

11 Did you mean to say
12 Mr. Zambrano or did you mean to say
13 Mr. Fajardo?

14 A. I wanted to say expressly that
15 to that meeting with the American
16 attorneys, I was expressly invited by
17 Mr. Fajardo.

18 THE INTERPRETER: Excuse me,
19 counsel, your Honor, there is just one
20 slight correction I would like to make to
21 the record as far as the translation. It
22 is 106-24, just to fine-tune it, instead
23 of "open" -- he says "I was not open,
24 true." It was "I was not sincere."

25 MR. MASTRO: Just so the record

1 A. GUERRA BASTIDAS

2 is complete, the answer about the
3 invitation was line 106 -- is page 106,
4 line 13.

5 Q. When did you meet with
6 Mr. Fajardo for him to pay you \$1,000?

7 MR. MASTRO: Objection to form.

8 THE SPECIAL MASTER: You may
9 answer.

10 A. Mr. Fajardo and I reached an
11 agreement regarding my involvement in
12 drafting the court orders in the Chevron
13 case. This agreement, which included the
14 payments to me of \$1,000, was approved by
15 Mr. Donziger in my presence after this
16 first meeting that I held with Mr. Fajardo
17 regarding that, and I was being paid the
18 \$1,000 every month, any day toward the end
19 of every month by Mr. Fajardo, money in
20 cash.

21 Q. When did you meet with
22 Mr. Fajardo when he gave you cash of
23 \$1,000?

24 A. At the end of the month,
25 usually at the end of the month --

1 A. GUERRA BASTIDAS

2 Q. Ocho?

3 THE SPECIAL MASTER: Let him
4 answer.

5 MR. VESELKA: I'm sorry, I
6 apologize.

7 A. October, November, January.
8 October/November of 2009, January/February
9 of 2010, November/December of 2011,
10 January of 2011, approximately.

11 Q. How many of those times did you
12 meet -- are you saying in --

13 THE SPECIAL MASTER: Excuse me,
14 can we just double-check to see whether he
15 meant, before January '11, I think he said
16 November/December 2010, and it sounded to
17 me like a misspeak as opposed to -- let's
18 just clear it up.

19 THE WITNESS: Am I to say
20 something?

21 THE SPECIAL MASTER: Yes.

22 Q. Which month?

23 THE SPECIAL MASTER: No, which
24 year.

25 MR. VESELKA: The months of

1 A. GUERRA BASTIDAS

2 which year, right.

3 THE SPECIAL MASTER: After
4 2009, the November/December, what year was
5 that?

6 THE WITNESS: After 2009, oh,
7 it was the year 2010.

8 THE SPECIAL MASTER: I was
9 right, okay.

10 Q. Where did you meet Mr. Fajardo
11 for those payments?

12 A. At 6th of December and Rio
13 Coca.

14 Q. Did you get a payment then?

15 A. Yes.

16 MR. MASTRO: Objection.

17 Q. I asked you earlier if you
18 received anything from him and you said
19 only thanks.

20 THE SPECIAL MASTER: Excuse me,
21 I'm sustaining that objection. You know,
22 first of all, that is argumentative and I
23 think contrary to the testimony.

24 MR. MASTRO: Correct.

25 MR. VESELKA: It is not. He

1 A. GUERRA BASTIDAS

2 said I got thanks and I got nothing
3 physically.

4 MR. MASTRO: As to one meeting
5 that you asked him about specifically.

6 MR. VESELKA: That's what he
7 just talked about.

8 MR. MASTRO: That is not what
9 he is talking about. You have an
10 open-ended question about payments all the
11 time, at the end of every month.

12 MR. VESELKA: Okay, then I'm
13 misunderstanding his answer.

14 Q. Are you saying you met
15 Mr. Fajardo outside at the same
16 intersection on multiple occasions?

17 A. Yes.

18 Q. And how would he deliver the
19 cash to you?

20 A. In bills.

21 Q. What size bills?

22 A. 20s, 50s.

23 Q. Did he have it wrapped in
24 anything? Did he just have it unwrapped?

25 A. In an envelope.

1 A. GUERRA BASTIDAS

2 Q. What was on the envelope?

3 A. Well, the bills.

4 Q. No, on the outside of the
5 envelope.

6 A. It is a white envelope, yes.

7 Q. So you would then go deposit
8 that in your account?

9 A. The deliveries of monies were
10 generally done at nighttime and I would
11 usually use that money for expenses
12 related to purchases for the construction
13 of a house I was building.

14 Q. So you did not deposit it into
15 your account?

16 MR. MASTRO: Objection to form,
17 asked and answered, and mischaracterizes
18 his prior testimony where he said
19 generally and usually.

20 MR. VESELKA: This is more than
21 an objection to form, your Honor, I mean
22 Mr. Gitter.

23 THE SPECIAL MASTER: Yeah, you
24 are right. You are right, okay. But I
25 think he is right this time. You are

1 A. GUERRA BASTIDAS

2 right and he is right.

3 MR. VESELKA: I'm concerned
4 about having time consumed on things that
5 I don't think have --

6 THE SPECIAL MASTER: Ten
7 minutes is being added to your time.

8 MR. VESELKA: All right,
9 thanks.

10 Q. I think it is a new question.
11 I don't think there was a question
12 pending.

13 A. So I need to answer?

14 THE SPECIAL MASTER: No, no.
15 He is going to ask a question that is not
16 objectionable.

17 Q. Do you have any documents
18 reflecting deposits into your accounts of
19 any payments you say you received from
20 Mr. Fajardo that reflect Mr. Fajardo's
21 name on them?

22 MR. MASTRO: Objection to form.

23 THE SPECIAL MASTER: Break it
24 up. I think there were actually two
25 questions there.

1 A. GUERRA BASTIDAS

2 Q. You do not have any records of
3 those receipts that have Mr. Fajardo's
4 name on them, correct?

5 MR. MASTRO: Objection to form.

6 THE SPECIAL MASTER: You may
7 answer that.

8 A. There are two public
9 instruments that evidence the payment on
10 two occasions of \$1,000 by the plaintiffs,
11 and of course -- no, that's enough.

12 Q. But those documents don't have
13 Mr. Fajardo's name on them, do they?

14 A. They don't have Mr. Fajardo's
15 name.

16 Q. What name do they have?

17 A. Those documents have been
18 signed by Ximena Centeno, an employee of
19 the group of Mr. Fajardo's.

20 Q. Do you know Ximena Centeno?

21 A. No.

22 Q. Have you ever met her?

23 A. No.

24 Q. So you don't -- were you there
25 watching her make those payments?

1 A. GUERRA BASTIDAS

2 A. No.

3 THE SPECIAL MASTER: Did you
4 ask payments or deposits?

5 MR. VESELKA: Deposits.

6 THE SPECIAL MASTER: You mean
7 to his account?

8 MR. VESELKA: Right.

9 THE SPECIAL MASTER: You mean
10 Mr. Guerra's account.

11 Q. So you do not personally know
12 if Ximena Centeno signed and made those
13 deposits or not, correct?

14 MR. MASTRO: Objection to form.

15 THE SPECIAL MASTER: You may
16 answer.

17 A. I have seen documents that show
18 that Ximena Centeno signed a paid -- made
19 deposits of payments, at least two
20 payments, into my bank account that I have
21 in Quito.

22 Q. But you did not see her sign
23 it, so you don't know if she or somebody
24 else signed it?

25 MR. MASTRO: Objection.

1 A. GUERRA BASTIDAS

2 THE SPECIAL MASTER: That
3 question is absolutely objectionable. No,
4 you can know something without seeing it.
5 You may not know it with the same
6 certainty, but you can know something
7 without seeing it. That's the problem
8 with your question.

9 Q. Have you ever, at the time of
10 those deposits, had you ever seen Ximena
11 Centeno's signature on anything else?

12 A. I don't recall, but I consider
13 I didn't.

14 Q. So you are basing your
15 testimony here just on reading the name of
16 that signature?

17 MR. MASTRO: Objection to form.

18 THE SPECIAL MASTER: . I'm not
19 allowing that question. Which testimony?

20 MR. VESELKA: His testimony
21 that she is the one who made those
22 deposits.

23 THE SPECIAL MASTER: Then make
24 that clear.

25 Q. So you are basing your

1 A. GUERRA BASTIDAS

2 testimony earlier that Ximena Centeno made
3 those deposits in your account on behalf
4 of Mr. Fajardo or his group simply based
5 on reading her name on the deposit slips?

6 MR. MASTRO: Objection to form.

7 THE SPECIAL MASTER: I object
8 to the form too. I'm going to allow that
9 objection. It is argumentative. The word
10 "simply" makes it argumentative, because
11 the witness has given other testimony that
12 might lead somewhat to some of that
13 conclusion.

14 Q. Do you have any basis for your
15 testimony that those deposits were made on
16 behalf of Mr. Fajardo other than what's
17 written on the deposit?

18 THE SPECIAL MASTER: You may
19 answer that question.

20 A. At the time that -- immediately
21 after those deposits were being made by
22 the person who was making them,
23 Mr. Fajardo would call me to tell me, to
24 inform me that the deposit had been
25 already made into my account. I would go

1 A. GUERRA BASTIDAS
2 to the bank, to the ATM, and I would
3 confirm that indeed the deposit of \$1,000
4 had been made, the deposit that
5 Mr. Fajardo had referred to over the
6 phone. After that I had to worry as to
7 what to spend them on, and obviously not
8 if they were made by check or in cash or
9 who had done it. I knew they were from
10 Mr. Fajardo because he would tell me on
11 the phone.

12 Q. You've produced -- you have
13 made available to Chevron your phone
14 records, correct?

15 A. Yes, I made available to them
16 phone records and other documents, one of
17 two daily planners and other documents
18 related to the case.

19 Q. None of your phone records
20 reflect any calls from Pablo Fajardo,
21 correct?

22 MR. MASTRO: Objection to form.

23 THE SPECIAL MASTER: You may
24 answer.

25 A. I'm not an expert technician.

1 A. GUERRA BASTIDAS

2 I don't know anything about that.

3 MR. GOMEZ: Excuse me,
4 Mr. Gitter, can we have the time? Can we
5 have a counting of the time?

6 THE SPECIAL MASTER: Sure.

7 MR. GOMEZ: Thank you.

8 THE SPECIAL MASTER: I have
9 given ten more minutes, so add in ten or
10 subtract ten.

11 MR. MASTRO: When we take a
12 break, I would like to address that.
13 Thank you, your Honor.

14 THE VIDEOGRAPHER: About 3
15 hours 40 minutes we have been on the
16 record, 3:40.

17 Q. Now I want to turn back to the
18 meeting on June 3rd that was set up by
19 your phone calls with Doe 2. Do you
20 remember that subject?

21 MR. MASTRO: Mr. Veselka,
22 should we fix the record now so we don't
23 keep using the wrong --

24 MR. VESELKA: Let's do it at
25 the end. I don't want him to mentally --

1 A. GUERRA BASTIDAS

2 THE SPECIAL MASTER: I agree
3 with Mr. Veselka on this one.

4 MR. MASTRO: That's fine.

5 Q. Where did the meeting on June
6 3rd -- you said it was at a hotel. The
7 meeting on June 3rd was at a hotel with
8 Mr. Rivero and Akerman?

9 A. Yes, I recall it was at a hotel
10 in the city of Quito.

11 Q. Do you remember which hotel?

12 A. Possibly the Marriott.

13 THE SPECIAL MASTER: I think
14 the record ought to be clear, now we are
15 talking about June 3rd, 2012, right,
16 Mr. Veselka?

17 MR. VESELKA: Yes, sir.

18 THE SPECIAL MASTER: We had
19 just been on 2010/2011. Now we are on
20 June 3rd, 2012.

21 Q. Do you now or have you ever had
22 an account at Banco Instituto del
23 Ecuatoriano de Seguridad Social?

24 A. I have been affiliated to the
25 Ecuadorian Institute of Social Security

1 A. GUERRA BASTIDAS

2 for many years, but I don't have a bank
3 account in the bank that's affiliated with
4 the Ecuadorian Institute of Social
5 Security.

6 Q. How are you affiliated with the
7 institute?

8 A. Well, in Ecuador people who
9 work for the state or people who work in
10 the private sector are affiliated to
11 Social Security, so if an employee falls
12 ill, he is treated by Social Security.
13 The money doesn't come from the employer.

14 Q. Did you have a meeting at the
15 location of the Banco Instituto
16 Ecuatoriano de Seguridad Social with any
17 Chevron representatives?

18 A. I don't recall specifically. I
19 don't recall.

20 Q. Had there been meetings that
21 had been tentatively scheduled but that
22 did not happen with the Chevron
23 representatives before the meeting of June
24 3rd of 2012?

25 A. I don't recall, but I don't

1 A. GUERRA BASTIDAS

2 think there were meetings scheduled before
3 that date.

4 Q. "That date" being June 3rd,
5 2012?

6 A. I'm referring to June 3rd of
7 2012.

8 Q. How long did that meeting last?

9 A. The meeting of June 3rd, 2012,
10 as I recall, lasted from three to four
11 hours.

12 Q. And was Doe 2 there at the
13 start of the meeting to introduce you to
14 the Chevron representatives?

15 A. Yes.

16 Q. And did Doe 2 stay for the full
17 three or four hours?

18 A. It's, from what I can recall,
19 I'm under the impression that he did stay
20 until the end, yes.

21 Q. Did you bring any documents or
22 electronic devices with you to the meeting
23 on June 3rd?

24 A. No, only my cell phone so that
25 I could be in touch with my family, with

1 A. GUERRA BASTIDAS

2 my wife basically.

3 Q. Was this your first time to
4 meet Mr. Rivero and Mr. Akerman?

5 A. In person, yes.

6 Q. Which of them had you talked --
7 had you talked on the phone with one or
8 more of them before?

9 A. That's my impression that yes,
10 I had already talked on the phone with
11 them.

12 Q. And when was that?

13 A. I'm not sure. That's the
14 impression that I have. But definitely on
15 June 3rd that's when the meeting took
16 place in person physically.

17 Q. So is there anything you can
18 remember about any of the phone
19 conversations that may have occurred
20 before June 3rd more substantive than just
21 setting up the meeting of June 3rd?

22 A. I had not talked with
23 Mr. Akerman or Mr. Rivero before June 3rd.
24 I can almost tell you that's how I recall.
25 But I talked about them with Doe 2 before

1 A. GUERRA BASTIDAS

2 June 3rd.

3 Q. At the meeting on June 3rd did
4 Mr. Rivero or Mr. Akerman have any money
5 with them to pay you for visiting with
6 them?

7 MR. MASTRO: Objection to form.

8 THE SPECIAL MASTER: How would
9 he know that unless it was given or
10 displayed?

11 MR. VESELKA: I'll rephrase it.

12 Q. Did Mr. Rivero or Mr. Akerman
13 tell you that they had money there
14 available to pay you for meeting with them
15 or for other purposes?

16 MR. MASTRO: Objection to form.

17 THE SPECIAL MASTER: Answer it
18 if you can understand it.

19 A. Understood.

20 The date mentioned in --
21 referred to in the question, from what I
22 understand, is June 3rd of 2012, which was
23 my first meeting with Mr. Akerman and
24 Mr. Rivero, and at that meeting, at that
25 encounter, Doe 2 was present who

1 A. GUERRA BASTIDAS

2 introduces us. In that meeting, from what
3 I can recall, at no time was there talk of
4 money or the financial. We talked
5 generalities, a little bit of everything.

6 Q. What do you remember the
7 Chevron representatives saying about the
8 potential for you to be compensated for
9 meeting with them and providing
10 information to them?

11 THE SPECIAL MASTER: I'm sorry,
12 in light of the prior answer, that
13 question is objectionable. He said in his
14 immediately prior answer "In that meeting,
15 from what I can recall, at no time was
16 there talk of money or the financial."

17 MR. VESELKA: And I'm trying to
18 delve into that to make sure that he is
19 not talking about a specific transaction.

20 THE SPECIAL MASTER: Why don't
21 you ask that. Why don't you ask that
22 then.

23 Q. Was there discussion about when
24 or under what circumstances the Chevron
25 representatives would be willing to talk

1 A. GUERRA BASTIDAS

2 with you about any financial compensation?

3 MR. MASTRO: Objection.

4 THE SPECIAL MASTER: I will let
5 it go on, just to move things along. But
6 that is an objectionable answer and I may
7 strike it yet -- question, and I may
8 strike it.

9 MR. MASTRO: That is asked and
10 answered as well.

11 A. From what I can recall at that
12 first meeting, aside from identifying
13 ourselves, I made a statement so that
14 Chevron's representatives, Akerman and
15 Rivero, would know about the legal -- the
16 Ecuadorian legal system, the way that
17 judges operate, regarding my involvement
18 in this case as judge at the early stage,
19 and also about my involvement after I
20 stopped being a judicial employee.

21 Q. You had a number of meetings
22 with those Chevron representatives after
23 the meeting on June 3rd, correct?

24 A. Yes.

25 Q. And one of those was a meeting

1 A. GUERRA BASTIDAS

2 on July 13, 2012?

3 A. I cannot state the date with
4 certainty. I actually believe it was July
5 12th -- July 12th of 2012.

6 Q. You are aware that that
7 conversation was tape-recorded by Chevron?

8 MR. MASTRO: Objection to form.

9 A. At that time I did not know
10 that Chevron was recording the
11 conversations.

12 Q. But you know it now, that some
13 of the conversations were recorded?

14 A. Yes.

15 Q. Is it legal in Ecuador for you
16 to be tape-recorded without your
17 knowledge?

18 MR. MASTRO: Objection, calls
19 for a legal conclusion.

20 THE SPECIAL MASTER: You may
21 answer.

22 A. Currently, if I remember
23 correctly, in Ecuador it is required that
24 the person who is going to be recorded
25 agree to it so that if the recording is

1 A. GUERRA BASTIDAS

2 made without the other person's knowledge,
3 and later on that conversation is filed
4 before a court and the person does not
5 reject that, that evidence is not valid.
6 And that's as far as it goes, not about if
7 the person doing the recording is
8 committing a crime.

9 Q. But since you learned about the
10 existence of the recordings of some of the
11 conversations, you've had a chance to look
12 over those, correct?

13 A. Here in the United States, once
14 I got here.

15 MR. VESELKA: We need to switch
16 the tape.

17 THE VIDEOGRAPHER: We are going
18 off the record, 3:09 p.m. This is the end
19 of disk three in the deposition of Alberto
20 Guerra Bastidas.

21 (Recess taken.)

22 (Guerra Exhibit 8 marked for
23 identification.)

24 THE VIDEOGRAPHER: We are going
25 back on the record at 3:16 p.m. This is

1 A. GUERRA BASTIDAS

2 the beginning of disk four in the
3 deposition of Alberto Guerra Bastidas.

4 BY MR. VESELKA:

5 Q. You have been handed what has
6 been marked as Exhibit 8. Have you seen
7 before this transcript and translation of
8 the meeting of July 13th, 2012?

9 A. Yes, I have seen it.

10 Q. Turn to page 44. You see in
11 the second entry there for Mr. Rivero he
12 has a statement he makes that concludes
13 with "So then they say 'fine.' Finally
14 they said 'that's fine, here's the
15 price.'"

16 THE SPECIAL MASTER: What page
17 are we at, I'm sorry?

18 MR. VESELKA: Page 44, sir.

19 A. Yes, I'm seeing it.

20 Q. And then there are two entries
21 below that for what are marked as
22 Investigator Number 5 in this transcript
23 and you see where their Investigator
24 Number 5 says that you and the first --
25 "in the first meetings you told us, well,

1 A. GUERRA BASTIDAS

2 but how much money, etc., etc."

3 So does that refresh your
4 recollection that at the first meeting on
5 June 3rd there had been some discussion
6 about money or how much you could be paid
7 for the assistance?

8 A. Not specifically, no, I don't
9 recall that money was talked about during
10 the June 3rd meeting.

11 Q. So notwithstanding what the
12 Chevron investigator is saying here, you
13 don't remember --

14 THE SPECIAL MASTER: I'm sorry,
15 argumentative. The last question -- the
16 full and complete answer to the last
17 question is -- the question was does it
18 refresh your recollection. His answer is
19 no, it does not. That's it. You can't
20 then ask a question so, in other words,
21 you know, etc.

22 MR. VESELKA: I will move on,
23 but respectfully disagree that
24 cross-examination would allow.

25 THE SPECIAL MASTER: I don't

1 A. GUERRA BASTIDAS

2 think so.

3 Q. So is your memory that the
4 discussion of money first came up at the
5 meeting on June 25th?

6 MR. MASTRO: Objection.

7 A. The issue of the money
8 regarding certain evidence, from what I
9 can recall, came up during the
10 conversation on this date, July 13th of
11 2012, and I don't believe that, prior to
12 that, there were any conversations
13 regarding money.

14 Q. So what else do you remember
15 being discussed on June 3rd that you
16 haven't told us yet?

17 A. Specifically, aside from what
18 has been stated, I recall having said
19 clearly that I was attending that meeting
20 authorized -- having been authorized by
21 Mr. Zambrano and with the goal of getting
22 to know each other and, finally, with the
23 aim of negotiating or to have Mr. Zambrano
24 negotiate himself, or that I would
25 represent Mr. Zambrano in the negotiation

1 A. GUERRA BASTIDAS

2 in future conversations.

3 Q. Did the subject of getting U.S.
4 resident visas for any of your children
5 come up on June 3rd?

6 A. No, hardly. That was not
7 talked about.

8 Q. Have you seen any transcript of
9 the meeting on June 3rd?

10 A. If it exists, I have seen it.

11 Q. Well, do you know if one
12 exists?

13 A. There exists.

14 Q. Did you tape-record any of your
15 meetings with Chevron representatives?

16 A. No.

17 Q. Did you tape-record any phone
18 calls with any representatives of Chevron
19 or intermediaries, including Doe 2?

20 A. No.

21 Q. Did you record any meetings or
22 telephone calls with Mr. Zambrano?

23 A. No.

24 Q. Did you tape-record any
25 meetings or telephone calls with

1 A. GUERRA BASTIDAS

2 Mr. Fajardo or anybody working with him?

3 A. No.

4 Q. At the conclusion of the
5 meeting in the Marriott Hotel on June 3rd,
6 you stated you wanted to get specific
7 directions or authorization from
8 Mr. Zambrano; is that correct?

9 MR. MASTRO: Objection to form.

10 THE SPECIAL MASTER: No, that's
11 all right. You may answer.

12 A. Could you please repeat the
13 question?

14 MR. VESELKA: Could you just
15 read it, please.

16 (The record was read.)

17 A. I understand that I must have
18 said it because I was acting -- my aim was
19 to negotiate for Zambrano.

20 Q. Do you recall a follow-up
21 telephone call with Doe 2 on the day after
22 your meeting?

23 A. I don't remember it
24 specifically, but Doe 2 would call me all
25 the time.

1 A. GUERRA BASTIDAS

2 Q. Did Doe 2 tell you that that
3 call was recorded on June 4th?

4 A. No.

5 Q. Do you remember Doe 2 telling
6 you that the Chevron executives were very
7 pleased with your story?

8 A. Yes.

9 Q. And do you remember Doe 2
10 telling you that you could receive a bonus
11 of \$5,000 if you would go meet with
12 Chevron executives in Bogotá?

13 MR. MASTRO: Objection to form.
14 Best evidence is the transcript.

15 THE SPECIAL MASTER: You may
16 answer.

17 A. The offer came from -- or the
18 words, the terms, came from Doe 2 or
19 possibly from either Mr. Akerman or
20 Mr. Rivero. I'm not sure, but I was told
21 that aside from the travel expenses I
22 would have -- \$5,000 would be made
23 available for me for expenses, personal
24 expenses.

25 Q. Do you remember a telephone

1 A. GUERRA BASTIDAS

2 conversation with the Chevron
3 representatives on June 5th following up
4 after the meeting of June 3rd and your
5 conversation with Doe 2?

6 A. Not specifically.

7 Q. Do you know if you had talked
8 with Mr. Zambrano by then after your
9 meeting on June 3rd?

10 MR. MASTRO: Objection to form.

11 THE SPECIAL MASTER: You may
12 answer it.

13 A. The meeting, the first meeting
14 that I had with Mr. Akerman and
15 Mr. Rivero, I attended -- I went there
16 authorized by Mr. Zambrano. I would
17 inform Mr. Zambrano as to the essence, the
18 core of my conversations with the
19 representatives from Chevron. He was
20 informed as to what I was talking about.

21 Q. So would you keep him informed
22 on a daily basis?

23 A. I kept him updated according to
24 how the conversations were being held.

25 Q. You don't have any phone

1 A. GUERRA BASTIDAS

2 records that reflect those calls, do you?

3 MR. MASTRO: Objection to form.

4 THE SPECIAL MASTER: I think
5 the witness testified he really doesn't
6 know anything about telephone records, he
7 is not technically adept or something like
8 that.

9 MR. MASTRO: Correct.

10 MR. VESELKA: They have
11 produced phone records.

12 THE SPECIAL MASTER: Go ahead.
13 Go ahead. I mean, let's go ahead.

14 Q. You don't know of any phone
15 records that you have that reflect those
16 calls with Mr. Zambrano, correct?

17 MR. MASTRO: Same objection.

18 A. No.

19 Q. Now, you have three children?

20 THE SPECIAL MASTER: Excuse me
21 a second, I'm troubled about leaving the
22 record. Do you know one way or the other
23 what your phone records reflect? I think
24 that's the first question. Can you please
25 ask the witness that question?

1 A. GUERRA BASTIDAS

2 THE WITNESS: No, I don't
3 recall.

4 THE SPECIAL MASTER: You know,
5 that's the problem with that question. I
6 mean, the problem is -- the problem with
7 that question is that if the answer is no,
8 it could mean I just don't know anything
9 about it. If you ask me whether my phone
10 records reflect conversations, I haven't
11 the faintest clue.

12 MR. VESELKA: They will be able
13 to cross-examine him when they put him on
14 -- get that on direct at trial.

15 THE SPECIAL MASTER: Yeah,
16 between now and then you can make whatever
17 publicity you want to make about it.
18 That's the problem.

19 MR. VESELKA: Between now and
20 then I have got something that I can show
21 at trial. I'm here working trying to get
22 a witness -- I don't want to take time.

23 THE SPECIAL MASTER: Go, go.

24 Q. Do you have three children; is
25 that right?

1 A. GUERRA BASTIDAS

2 A. Yes.

3 Q. One daughter who has resident
4 status in the U.S., correct?

5 A. Yes.

6 Q. And who is married?

7 A. Yes.

8 Q. One son that was living in
9 Ecuador back in 2012, correct?

10 A. Yes, correct.

11 Q. And he is married also,
12 correct?

13 A. Married and with one child.

14 Q. Congratulate him for me.

15 A. Thank you. I will do so.

16 Q. And then you have a son who
17 lives in the United States and works in
18 the United States but has some issues with
19 regard to his residency status; is that
20 correct?

21 A. Yes.

22 Q. And he is married also?

23 A. Yes, he is married.

24 Q. Do you remember raising and
25 asking the Chevron representatives about

1 A. GUERRA BASTIDAS

2 whether they would be able to help you
3 with resident visas in the U.S. for your
4 two sons in the phone call of June 5th,
5 2012?

6 A. Regarding the date, I cannot
7 tell you exactly; but as far as the
8 content, yes.

9 Q. So in one of the meetings or
10 phone calls in June of 2012 you brought
11 that up; is that fair?

12 A. Yes.

13 Q. Do you remember raising in the
14 phone call on June 5th of 2012 with the
15 Chevron representatives about your wanting
16 to get Mr. Zambrano's approval and, quote,
17 "in some way share with him, even if
18 indirectly, any fruits or results"?

19 MR. MASTRO: Objection to form,
20 best evidence, transcript.

21 THE SPECIAL MASTER: Answer the
22 question.

23 A. I said so. I said so. What I
24 cannot say with certainty is if I said it
25 on the date that you stated.

1 A. GUERRA BASTIDAS

2 Q. Do you remember any meetings or
3 conversations with any of the Chevron
4 representatives or Doe 2 after the phone
5 call of June 5th and before the meeting of
6 June 25th, 2012?

7 A. Not specifically.

8 Q. Who attended the meeting on
9 June 25th?

10 A. If the meeting that you are
11 referring to is related to the meeting
12 that I had with Chevron's representatives,
13 then at that meeting the people present
14 were Mr. Rivero, Mr. Akerman and myself.

15 Q. Where was that meeting?

16 A. Given that we would meet in the
17 room, the hotel room, where I would stay,
18 in my residence one time, or twice
19 perhaps, and other places where we would
20 agree to meet, public places, I cannot
21 tell you with certainty as to the place,
22 the location where we met, regarding the
23 meeting that you are talking about.

24 Q. Well, there's a meeting in July
25 where you go to your house to show the

1 A. GUERRA BASTIDAS

2 Chevron representatives some of your
3 electric devices, correct?

4 A. Yes, that happened.

5 Q. And was that the first time you
6 went to your house for one of the meetings
7 with Chevron?

8 A. That's the first time they went
9 to my house.

10 Q. So you would not have gone to
11 your house on the meeting on June 25th?

12 A. The most likely thing is no.

13 Q. In the conversation with the
14 Chevron representatives on June 25th,
15 2012, you understood you were in
16 negotiations over the financial terms or
17 other fruits and benefits that you might
18 get out of cooperating with Chevron,
19 correct?

20 MR. MASTRO: Objection to form.

21 THE SPECIAL MASTER: You can
22 answer the question if you understand it.

23 A. Yes, understood.

24 My aim was to negotiate
25 specifically for Mr. Zambrano and

1 A. GUERRA BASTIDAS

2 obviously for myself as well. There
3 should be some personal benefit.

4 Q. And as part of those
5 negotiations in that conversation on June
6 25th you represented to the Chevron
7 representatives that you had been offered
8 \$300,000 by the plaintiffs in the Lago
9 Agrio litigation, correct?

10 A. My intent was to improve my
11 position, the face of a good future
12 negotiation for Mr. Zambrano and myself,
13 so that to that end I said some things or
14 I exaggerated some things.

15 Q. And one of the things you
16 exaggerated was that you had been offered
17 \$300,000 by the Lago Agrio plaintiffs,
18 that was an exaggeration, correct?

19 A. There was an exaggeration made
20 to Chevron's representatives.

21 Q. And at the time of these
22 negotiations were you employed, in June
23 and July of 2012?

24 A. By July of 2012 I no longer had
25 employment.

1 A. GUERRA BASTIDAS

2 Q. Your municipal position was May
3 and June of 2012, correct?

4 A. Yes, May and June, when I
5 worked in the municipal position, but I
6 recall that the mayor ordered that I be
7 paid for the month of July without me
8 having worked it.

9 Q. Did he do that just to help you
10 out because you had no savings at the
11 time?

12 MR. MASTRO: Objection to form.
13 Mischaracterizes his testimony.

14 THE SPECIAL MASTER: I have a
15 different objection. But if you can
16 understand it, let him answer.

17 A. The mayor had invited me to
18 work at that municipality with a
19 commitment that I would be compensated at
20 least \$3,000 per month. Because the
21 compensation was \$1,000 I believe that he
22 tried to compensate me by paying me the
23 additional month and of course for which
24 I'm grateful.

25 Q. In your negotiating with

1 A. GUERRA BASTIDAS

2 Chevron over financial terms did you
3 represent to them that you did not have
4 any savings?

5 A. If you can please clarify the
6 time you are referring to, if it's before
7 the judgment or later on in 2012.

8 Q. Certainly. Anytime you need
9 clarification, let me know.

10 I'm talking particularly in the
11 July 2012 time frame.

12 A. I told them, Chevron's
13 representatives, that I had no savings.

14 Q. And was that true at the time?

15 A. What is most likely is that I
16 had no savings.

17 Q. Did the Chevron representatives
18 ever tell you that they questioned your
19 credibility?

20 A. They didn't say so expressly
21 but I understood that they were doing
22 that, because on several occasions, on
23 several meetings daily, conversations,
24 they would summarize and they would repeat
25 their questions.

1 A. GUERRA BASTIDAS

2 Q. At the meeting of July 13th,
3 the meeting started off in the morning in
4 a hotel; is that correct?

5 A. I think it is this one
6 (indicating). Yes, it is the hotel where
7 Chevron's representatives were staying.

8 Q. Which hotel was that?

9 A. I honestly don't recall. I
10 cannot tell you specifically.

11 Q. And at this meeting in the
12 morning at the hotel the Chevron
13 representatives had \$20,000 in cash
14 available to pay you, correct?

15 A. I didn't count it. I didn't
16 count the money. But they let me know
17 orally that they had money, possibly
18 \$20,000, ready to be paid.

19 Q. And do you remember responding,
20 asking them to add a couple of zeros to
21 that?

22 A. Yes.

23 Q. And that was just part of your
24 negotiations?

25 A. It was part of a joke, a joke.

1 A. GUERRA BASTIDAS

2 Latinos, we're like that.

3 Q. People call me humorless all
4 the time.

5 THE SPECIAL MASTER: I could
6 make a joke about that.

7 MR. VESELKA: Right.

8 THE SPECIAL MASTER: But I will
9 suppress it.

10 Q. You had already suggested to
11 them that you had been offered 300,000 by
12 the Lago Agrio plaintiffs in order to --

13 THE SPECIAL MASTER:
14 Argumentative already.

15 MR. MASTRO: And asked and
16 answered.

17 THE SPECIAL MASTER:
18 Argumentative already. Change it.

19 MR. VESELKA: Asking him about
20 his testimony?

21 THE SPECIAL MASTER: Didn't you
22 begin with the word -- I'm sorry, I
23 thought I heard the word "but." Sorry.

24 Q. You previously had testified
25 that you referenced -- you had claimed

1 A. GUERRA BASTIDAS

2 that you had been offered 300,000 by the
3 Lago Agrio plaintiffs in order to try to
4 set a higher number as part of your
5 bargaining, correct?

6 MR. MASTRO: Objection to form.
7 Mischaracterizes the prior testimony.

8 THE SPECIAL MASTER: You may
9 answer if you understand it.

10 A. I told the men who represented
11 Chevron that because of my involvement
12 previous to the issuance of the judgment
13 and because of the judgment, the
14 plaintiffs had offered to pay me \$300,000,
15 but I said it to improve my negotiating
16 position. That's the truth.

17 Q. And asking for 200,000 in the
18 meeting on July 13th would have been part
19 of that same negotiating?

20 MR. MASTRO: Objection to form,
21 mischaracterizes prior testimony.

22 THE SPECIAL MASTER: No, he
23 said it was a joke.

24 MR. VESELKA: And I'm trying to
25 examine him on that whether that was

1 A. GUERRA BASTIDAS

2 consistent with his bargaining position
3 where he started off at 300,000 and now he
4 is at 200,000, it is trying to
5 cross-examine --

6 THE SPECIAL MASTER: Okay, go
7 ahead, answer the question if you can.

8 A. On this date, the date you are
9 mentioning, I was told they had 20,000. I
10 didn't verify it. There was no reason why
11 I should have done so. At the moment of
12 truth, sometime later, I said let's make
13 it 50 and, finally, in exchange for
14 certain evidence that I turned over I
15 received from them \$18,000.

16 Q. When you had come down, as you
17 said, I'm not trying to recharacterize
18 your testimony --

19 THE SPECIAL MASTER: But you
20 are.

21 MR. MASTRO: You are.

22 THE SPECIAL MASTER: But you
23 are. Go ahead. You already did.

24 Q. When you arrived at your demand
25 for 50,000 Chevron representatives went

1 A. GUERRA BASTIDAS

2 and picked up an extra 30,000 in cash to
3 have the 50,000 in cash when you went to
4 your home that afternoon, correct?

5 MR. MASTRO: Objection,
6 mischaracterizes prior testimony, assumes
7 facts not in evidence, lack of foundation,
8 and argumentative.

9 THE SPECIAL MASTER: You can
10 answer the question if you understand it.

11 A. I reaffirm what I said in the
12 sense that I negotiated only for the
13 18,000 in exchange for the evidence.
14 That's what I received in cash, and I
15 don't know for a fact that they may have
16 gone to some banking institution or some
17 other place to get the money that you were
18 referring to.

19 Q. So the Chevron representatives
20 didn't tell you that they had, on the way
21 between the meeting at the hotel and going
22 to look at the equipment at your house,
23 that they had picked up the extra 30,000
24 in cash?

25 MR. MASTRO: Same objection.

1 A. GUERRA BASTIDAS

2 THE SPECIAL MASTER: You may
3 answer.

4 A. From the meeting at the hotel,
5 I went to a notary public's office and
6 after I finished my procedures at that
7 location, I met with them. They were
8 waiting for me at a nearby place. And
9 from there we went to my residence.

10 Q. And do you remember that after
11 you had negotiated with them, Mr. Rivero
12 said he would be willing to pay 42,000
13 that day if when they reviewed the
14 material that you had at the house it
15 included a copy of the draft sentencia and
16 the memoria ayuda?

17 MR. MASTRO: I object to form.

18 A. I don't recall.

19 MR. CLAYMAN: Excuse me, he has
20 been sitting for about three hours. Is it
21 going to be possible for us to take a
22 break soon?

23 THE SPECIAL MASTER: Very soon.
24 Ask him if he wants to take a break.

25 MR. CLAYMAN: Yes, your Honor.

1 A. GUERRA BASTIDAS

2 THE SPECIAL MASTER: Let's take
3 our afternoon break.

4 THE VIDEOGRAPHER: We are going
5 off the record at 4:05 p.m. This is the
6 end of disk four in the deposition of
7 Alberto Guerra Bastidas.

8 (Recess taken.)

9 THE VIDEOGRAPHER: We are going
10 back on the record at 4:29 p.m. This is
11 the beginning of disk five in the
12 deposition of Alberto Guerra Bastidas.

13 MR. MASTRO: Mr. Veselka, are
14 you going to tell us about the other
15 issue?

16 MR. VESELKA: There is an
17 e-mail coming.

18 BY MR. VESELKA:

19 Q. At your home you provided to
20 the Chevron representatives certain
21 electronic equipment? And for reference
22 I'm going to hand you what has been
23 previously marked as Exhibit 4. This is a
24 copy of your January 27th, 2013 agreement
25 with Chevron, correct?

1 A. GUERRA BASTIDAS

2 A. Yes, that's correct.

3 Q. If you look at page 8 or
4 Attachment A --

5 A. Page 8, yes.

6 Q. -- that lists the equipment and
7 papers that you provided to the Chevron
8 representatives at your house on July 13,
9 2012, correct?

10 A. Yes.

11 Q. Did you give them anything
12 other than that that day?

13 A. I gave them the computer, the
14 CPU to the computer. I don't know if it
15 is written here because it is in English.

16 Q. The Maxtor hard drive?

17 A. Oh, Maxtor, yes. I turned this
18 over to them.

19 Q. And did the representatives
20 look through and go through and try to
21 find the draft sentencia?

22 A. I don't recall specifically
23 that they had looked for the document.

24 Q. Do you remember that they did
25 examine and look through some of the flash

1 A. GUERRA BASTIDAS

2 drives and the hard drives in order to see
3 what was or wasn't on there before they
4 agreed to pay you the \$18,000?

5 MR. MASTRO: Objection to form,
6 foundation.

7 THE SPECIAL MASTER: Answer the
8 question if you can.

9 A. Upon arriving at my residence,
10 after meeting my wife and greeting her, I
11 showed them the hard drive, and I
12 understand a good deal of the items
13 referred to in page 8, and one of them,
14 and I think it was Mr. Akerman, entered
15 into the system, and under those
16 circumstances Mr. Rivero gave me the
17 \$18,000.

18 I don't know if it was -- the
19 operation didn't take too long, an hour,
20 hour and a half at most. I'm not learned
21 about these things. I don't know if they
22 looked, you know, with another device,
23 etc., etc., these items, etc. But they
24 definitely received them and they took
25 them.

1 A. GUERRA BASTIDAS

2 Q. What were they carrying the
3 cash in?

4 A. As far as I can recall, I saw
5 the cash in the hotel, in a safe in the
6 hotel, but it was my understanding that
7 Mr. Akerman was carrying the cash in a
8 backpack hanging from his shoulder, a
9 backpack, a backpack.

10 Q. So at the end of the day, of
11 that day, when they decided they were
12 going to pay you the \$18,000, he gave you
13 the cash out of the backpack?

14 A. He pulled it out of the
15 backpack. That's my clearest
16 recollection.

17 Q. How big a stack was it?

18 A. It was nine stacks of \$20
19 bills.

20 Q. Each stack was about an inch or
21 two; is that what you are saying?

22 A. Each stack was approximately
23 two or three centimeters.

24 Q. So the total stack would be 25
25 to 30 centimeters?

1 A. GUERRA BASTIDAS

2 MR. MASTRO: Do we really have
3 to do the math?

4 A. Nine times two, 18.

5 Q. And where did you put it?

6 A. Nine times this (indicating),
7 if we piled them up, possibly 20
8 centimeters.

9 Q. And where did you put it?

10 A. In a drawer, in a desk in my
11 living room.

12 Q. Did Chevron ask for a receipt?

13 A. No.

14 Q. You understood at the end of
15 that day that they were willing to pay
16 more if you had more information for them,
17 including the flash drive with the draft
18 judgment, right?

19 MR. MASTRO: Objection to form.

20 MR. VESELKA: Mr. Gitter, we
21 have an objection to form. I'm sorry.

22 THE SPECIAL MASTER: I'm
23 embroiled in trying to open your e-mail.

24 Overruled.

25 A. I was hoping that in the future

1 A. GUERRA BASTIDAS

2 I could obtain a larger benefit or
3 earning.

4 Q. So one of the things you did
5 was go get more information -- more
6 documents and information and computer
7 information to provide to them at a later
8 meeting, correct?

9 A. Immediately after that date I
10 insisted quite a lot with Mr. Zambrano,
11 but what I definitely did later on was to
12 obtain bank records, certificates from an
13 airline, and those kinds of documents.

14 Q. If you look in Exhibit 4 to
15 Attachment B on page 10, the top part of
16 that lists information that you turned
17 over to the Chevron representatives on
18 July 31st, 2012, correct?

19 A. Yes, that's what it states,
20 correct.

21 Q. And when you gave them that,
22 were you hoping that they would pay you
23 more money?

24 A. No, because I would have told
25 them specifically that I was -- that I was

1 A. GUERRA BASTIDAS

2 requesting more money, and I didn't do
3 that. I gave it to them.

4 Q. But you knew that if you could
5 find the draft judgment, they were willing
6 to give you more money, right?

7 A. I believe that I would benefit
8 better once Mr. Zambrano were to take part
9 in the conversations and the negotiations.

10 Q. And those benefits that you are
11 talking about would be additional money
12 and/or help on visas for you or your
13 family in the U.S.?

14 A. I must tell you that I didn't
15 think about coming to the United States
16 with my wife nor with my son from Ecuador.

17 Q. Up until the July 31st meeting
18 where you turned over these materials, you
19 had always remembered that your draft
20 judgment that you had worked on, that you
21 had touched up, you had on a flash drive,
22 correct?

23 MR. MASTRO: Objection to form,
24 mischaracterizes the testimony. Go ahead.

25 A. I had that memory.

1 A. GUERRA BASTIDAS

2 Q. And then as of July 31st, since
3 they weren't paying you any more for the
4 material you were providing, that's when
5 you first remembered that the work on the
6 draft judgment was done on this other
7 computer that you've told us about,
8 correct?

9 MR. MASTRO: Objection to form.

10 THE SPECIAL MASTER: Sustained.

11 Q. The flash drives that you
12 thought included your work on the draft
13 judgment were flash drives you had at your
14 house in Quito, correct?

15 A. The flash drives were in my
16 house in Quito.

17 Q. But the Chevron representatives
18 did not find any copy of the draft
19 judgment on those flash drives, correct?

20 THE SPECIAL MASTER: Asked and
21 answered.

22 Q. Only after they did not find
23 that draft judgment on your flash drives
24 did you then for the first time suggest
25 that the work had been done on a separate

1 A. GUERRA BASTIDAS

2 computer, correct?

3 MR. MASTRO: Objection to form,
4 lack of foundation, asked and answered.

5 THE SPECIAL MASTER: Overruled.
6 You may answer.

7 A. At first I believe that the
8 judgment could be in the computer or on
9 one of these flash drives that I had in my
10 residence, and I had not worried about
11 that previously, there was no reason for
12 me to do so.

13 But later on, it is my
14 understanding, I was told by Chevron's
15 representatives that they were not finding
16 the draft judgment. That's when I began
17 an effort to remember until I determined
18 that actually the draft judgment, the
19 project, I worked on it in Lago Agrio,
20 among other documents that I have
21 generated over there.

22 Q. And you had not told Chevron
23 that you had worked on any part of the
24 project on a computer in Lago Agrio -- on
25 a separate computer in Lago Agrio before

1 A. GUERRA BASTIDAS

2 that time, correct?

3 MR. MASTRO: Objection to form.

4 THE SPECIAL MASTER: Overruled.

5 A. Could you please repeat the
6 question.

7 Q. You had not told Chevron that
8 you had worked on any part of the project
9 on a separate computer in Lago Agrio
10 before July 31st, correct?

11 A. I told Chevron several things.
12 Some of them were true, others were
13 exaggerations. Sometimes some things were
14 said firmly, others were said lightly,
15 because Mr. Akerman and Mr. Rivero were at
16 all times making questions regarding
17 everything and I was actually worried
18 about definitely in negotiating for
19 Mr. Zambrano.

20 Q. In the conversation on July
21 31st -- or 13th -- the representatives of
22 Chevron had told you that you were going
23 to be their bridge to Mr. Zambrano,
24 correct?

25 MR. MASTRO: Objection to form.

1 A. GUERRA BASTIDAS

2 THE SPECIAL MASTER: Overruled.

3 A. During some conversation they
4 told me or had me -- led me to understand
5 that I was the bridge with Mr. Zambrano,
6 and I myself, from the very beginning, had
7 also believed that.

8 Q. So after the meetings in July
9 and after you had provided certain
10 material and been paid a certain amount of
11 money, you understood that the Chevron
12 representatives wanted you to approach
13 Mr. Zambrano to see if he would meet with
14 them?

15 A. During the meeting that you are
16 referring to, Chevron's representatives,
17 they didn't give me a certain amount of
18 money. They gave me \$18,000 in exchange
19 for the physical evidence that I turned
20 over at that time, specifically the CPU,
21 the computer.

22 And following that I continued
23 thinking that the objective was not I, but
24 Mr. Zambrano.

25 Q. And you understood as the

1 A. GUERRA BASTIDAS

2 bridge to Mr. Zambrano that you -- Chevron
3 representatives said they would pay you a
4 finder's fee if Mr. Zambrano agreed to
5 meet with them?

6 MR. MASTRO: Objection to form,
7 argumentative.

8 THE SPECIAL MASTER: You may
9 answer.

10 A. Chevron's representatives whom
11 I was meeting, Mr. Akerman and Mr. Rivero,
12 during some conversation of the many that
13 we had led me to understand, or that's the
14 way I understood it, that once they
15 negotiated with Mr. Zambrano, they would
16 compensate me with some amount of money.

17 Q. And Mr. Rivero gave you a stack
18 of documents that he wanted you to give to
19 Mr. Zambrano to show that he was the
20 person involved and would be the
21 representative, that he had the authority
22 for Chevron, correct?

23 A. Because I was insisting with
24 Mr. Zambrano so that he would meet with
25 the men from Chevron, Mr. Zambrano

1 A. GUERRA BASTIDAS

2 demanded that he meet with a man named
3 James Craig whom he acknowledged is the
4 only person identified with Chevron
5 because he was the spokesperson for Latin
6 America, and he didn't want and he
7 wouldn't agree to meet with the people
8 with whom I was meeting, so that once
9 Mr. Rivero and Mr. Akerman were informed
10 of this concern of Mr. Zambrano's,
11 Mr. Rivero gave me part of his CV -- part
12 of his identification, something from some
13 magazines, from El Comercio, from the
14 press, and I gave that information to
15 Mr. Zambrano so that he could see that he
16 was going to meet with people from Chevron
17 and not a con man or ripoff artists.

18 Q. So you did give the stack of
19 materials that Mr. Rivero gave you --

20 THE SPECIAL MASTER: Excuse me,
21 Counsel. Are you asking him whether what
22 you are holding in your hand and flipping
23 is the stack of materials? Why are you
24 doing that while asking him a different
25 question?

1 A. GUERRA BASTIDAS

2 MR. VESELKA: Well, I was going
3 to show it to him.

4 THE SPECIAL MASTER: And that's
5 okay. I expressed sotto voce to your
6 colleague when the witness is trying to
7 answer the question, it is distracting to
8 have packets of paper being moved around
9 here. It is distracting to me.

10 MR. VESELKA: It is distracting
11 to me. But with a time limitation on a
12 witness that we really think because of
13 the translation needs more, we have to try
14 to --

15 THE SPECIAL MASTER: Please,
16 just continue. And now we both have to go
17 look at the transcript again.

18 Q. You gave to Mr. Zambrano the
19 materials Mr. Rivero asked you to give
20 him, correct?

21 A. Yes. Yes, I personally gave
22 Mr. Zambrano that documentation around
23 August of 2012.

24 Q. On August 14th, to be exact,
25 correct?

1 A. GUERRA BASTIDAS

2 A. It was possibly that date, but
3 it was August of 2012.

4 Q. Where did you see Mr. Zambrano
5 when you gave it to him?

6 A. In the City of Quito, across
7 from the Mariscal Sucre Airport, the old
8 airport.

9 Q. And how did you know
10 Mr. Zambrano was going to be there?

11 A. Mr. Zambrano was constantly
12 getting in touch with me over the phone,
13 and we had agreed over the phone that he
14 would wait for me at that location.

15 Q. Did you know where he had been
16 earlier that day?

17 A. No, but he told me he was
18 coming in from a trip. He didn't tell me
19 if he was coming in from Oriente or from
20 the coast.

21 Q. At the time that you took that
22 material at Chevron's request to give to
23 Mr. Zambrano, did you know that
24 Mr. Zambrano had been videotaped by
25 Chevron or its agents meeting with Pablo

1 A. GUERRA BASTIDAS

2 Fajardo and some North American lawyers?

3 A. No, at that time, I was not
4 aware of that detail.

5 Q. When did you first become aware
6 of that detail?

7 MR. MASTRO: Objection,
8 foundation.

9 THE SPECIAL MASTER: Go ahead.
10 Overruled.

11 A. Regarding that detail that you
12 are mentioning, I found out later,
13 possibly around the months of August,
14 September, October 2012.

15 Q. From whom?

16 A. One of the Mr. Akerman or
17 Mr. Rivero. Mr. Akerman or Mr. Rivero
18 showed me a photograph where one can see
19 Mr. Zambrano speaking with individuals as
20 handsome as you are, American; well,
21 American. In the lower part of the
22 photograph, it says August 14th, 2012.

23 Q. Have you ever seen or heard --
24 have you ever heard any audio recordings
25 of that conversation?

1 A. GUERRA BASTIDAS

2 THE SPECIAL MASTER: Which
3 conversation, I'm sorry?

4 MR. VESELKA: The conversation
5 between the less handsome North American
6 lawyers and Mr. Zambrano and Mr. Fajardo.

7 A. I have not heard -- I have not
8 seen video, nor, what do you call that,
9 audio containing conversations between
10 Zambrano and Fajardo.

11 Q. Either on that day with those
12 North American lawyers or of any other
13 conversation between Mr. Fajardo and
14 Mr. Zambrano?

15 A. Fajardo and Zambrano, I don't
16 recall having heard that.

17 Q. While you have Exhibit 4 out in
18 front of you, if you would turn to page 6.

19 That's your signature, correct?

20 A. Yes.

21 Q. And when did you sign that? It
22 is dated on the first page, January 27th,
23 if I remember correctly.

24 A. Yeah, this is the agreement
25 signed by myself and Chevron on the date

1 A. GUERRA BASTIDAS

2 stated.

3 Q. Where was it negotiated?

4 A. This, regarding some issues
5 related to this, it was talked about in
6 the City of Chicago in November of last
7 year, but eventually it was finalized and
8 executed in the City of New York and in
9 the presence of my attorney.

10 Q. If you go back to Exhibit 7,
11 your itinerary, and turn to page 99, that
12 reflects you and your wife flying to
13 Chicago on the 14th of November, 2012,
14 correct?

15 A. That's correct.

16 Q. And it shows you all leaving
17 Chicago on the 19th of November?

18 A. Yes, that's correct.

19 Q. So is that when you were
20 starting the negotiations over what ended
21 up being the agreement that is Exhibit 4?

22 A. It is in Chicago that we speak
23 specifically about the subject of Exhibit
24 4 specifically.

25 Q. Had you seen a draft before you

1 A. GUERRA BASTIDAS

2 got to Chicago?

3 MR. CLAYMAN: Objection.

4 MR. MASTRO: Objection to form.
5 Draft of what?

6 THE SPECIAL MASTER: You mean a
7 draft of the agreement there that is being
8 shown?

9 MR. VESELKA: Yes, sir.

10 THE SPECIAL MASTER: You may
11 answer the question.

12 A. I had not seen any draft.

13 Q. And with whom did you negotiate
14 the agreement during the meetings in
15 Chicago in November?

16 MR. MASTRO: Objection to form.

17 THE SPECIAL MASTER: You may
18 answer the question.

19 A. In November in Chicago there
20 were approaches toward a negotiation, in
21 those conversations regarding the issues
22 of the travel for the whole family, of
23 moving, of transportation, of a vehicle,
24 and others. From what I can recall
25 Chevron was represented in those

1 A. GUERRA BASTIDAS

2 conversations by a man named Jose.

3 Q. Jose Martin?

4 A. Possibly, yes. Possibly, yes.
5 Mexican, 45 to 50 years of age?

6 Q. A young man.

7 A. Possibly general accountant.
8 Mr. Randy Mastro was there, Mr. Akerman,
9 Mr. Rivero, and some other people whom I
10 don't remember -- whose last names I don't
11 remember.

12 Q. Had you engaged counsel to
13 advise you yet?

14 A. No, I had not hired an
15 attorney, but, however, Chevron
16 suggested -- asked if I wanted an
17 attorney, but the truth is at that time,
18 at that place, I still considered myself
19 good enough to represent myself.

20 Q. During those negotiations, were
21 there at least draft term sheets? I don't
22 know if that phrase is familiar to you or
23 not.

24 MR. MASTRO: Objection to form.
25 Mischaracterizes his prior testimony.

1 A. GUERRA BASTIDAS

2 THE SPECIAL MASTER: No, no,
3 no, it doesn't do anything of the sort,
4 Mr. Mastro. Overruled.

5 MR. MASTRO: On page 173, line
6 16.

7 THE SPECIAL MASTER: Look,
8 forget it, the question is fine. Please
9 answer the question. I don't care
10 whatever it says.

11 MR. MASTRO: Can you reread the
12 question.

13 Q. Were there at least draft term
14 sheets that you were looking at or
15 exchanging during the meetings in
16 November?

17 MR. MASTRO: Objection to form.

18 A. There were sheets that I used
19 in Spanish where I wrote down the essence
20 of the proposal and of what was being
21 discussed.

22 Q. How much were you asking for?

23 A. I don't recall, but initially I
24 assumed I could negotiate for strong
25 amounts of money.

1 A. GUERRA BASTIDAS

2 Q. Does that mean you were asking
3 for amounts much larger than what ended up
4 being in the agreement?

5 THE SPECIAL MASTER: Excuse me.
6 He just answered the question. Your
7 question was "How much were you asking
8 for?" "Answer: I don't recall, but
9 initially I assumed," etc.

10 Your next question is "Does
11 that mean you were asking for." He just
12 told you he doesn't recall what he was
13 asking for. The question is
14 objectionable. Move on.

15 MR. VESELKA: The one before
16 was asking specific amounts. This is
17 asking just whether the amounts were
18 larger than what it ended up being.

19 THE SPECIAL MASTER: It says,
20 "How much were you asking for?" "I don't
21 recall." I'm sorry, the question you have
22 just put is incomprehensible in light of
23 the last answer. It is incomprehensible
24 to me, and if it is incomprehensible to
25 me, it is objectionable and you've got to

1 A. GUERRA BASTIDAS

2 rephrase it.

3 Incomprehensible questions have
4 a tendency to mislead, not that it is
5 intended, but they have that tendency.

6 Q. Are the amounts in the final
7 agreement as signed substantially less
8 than what you were asking for?

9 MR. MASTRO: Objection.

10 Q. If you remember.

11 MR. MASTRO: And I objected. I
12 object to the form.

13 THE SPECIAL MASTER: If you
14 remember.

15 A. I was not aware of the American
16 system. I don't know American laws
17 regarding this issue, so when I was in
18 Ecuador, I told Chevron's representatives
19 that I could negotiate for, according to
20 me, well, definitely a certain capital.

21 Later on I found out that here
22 they are more direct, more serious, that
23 payments could be made for evidence, but
24 payments are not allowed for testimony or
25 sworn statements, that's against the law.

1 A. GUERRA BASTIDAS

2 So, in other words, the rules
3 here are clear and I agreed to subject
4 myself to those rules.

5 Q. Is it correct that Chevron's
6 representatives and negotiators told you
7 they could not pay you the amounts you
8 were asking because of those rules?

9 MR. MASTRO: Objection to form.

10 THE SPECIAL MASTER: You may
11 answer.

12 A. In the face of the explanation,
13 because of the explanation that I received
14 regarding this and from Counsel Rivero, I
15 accepted and I agreed to and it was
16 eventually made concrete, my cooperation
17 with Chevron, only and exclusively that
18 which is stated in the agreement that we
19 have looked at this afternoon.

20 Q. While you were in Chicago in
21 November negotiating those terms, were you
22 also negotiating the language of your
23 first declaration?

24 MR. MASTRO: Objection to form.

25 THE SPECIAL MASTER: Yes, I

1 A. GUERRA BASTIDAS

2 will sustain that.

3 Q. Your declaration, your first
4 declaration I believe is dated November
5 17th, 2012, correct?

6 A. Yes.

7 Q. And it states that you signed
8 it in Chicago; is that true?

9 A. That's true.

10 Q. So the declaration -- you were
11 working with the lawyers for Chevron on
12 the language of the declaration during the
13 meetings you had in Chicago, correct?

14 MR. MASTRO: Objection.

15 THE SPECIAL MASTER: Wait one
16 second.

17 That question is okay. The
18 problem before was the assumption of a
19 negotiation of the declaration. This time
20 you are talking about working on the
21 declaration.

22 MR. MASTRO: Your Honor, I have
23 an objection. I need to be heard. If the
24 witness could step out for a minute.

25 THE SPECIAL MASTER: Okay.

1 A. GUERRA BASTIDAS

2 THE VIDEOGRAPHER: We are going
3 off the record, 5:31 p.m.

4 (Witness departs the room.)

5 THE SPECIAL MASTER: Your
6 objection is to more than form?

7 MR. MASTRO: Yes, it is.

8 THE SPECIAL MASTER: My ruling
9 on the form stands. Okay, Mr. Mastro,
10 what's your problem?

11 MR. MASTRO: He is conflating
12 two things, your Honor. The reason for my
13 objection on the form basis is because he
14 is trying to conflate and make it sound
15 like the two things were going on
16 simultaneously, when declaration is one
17 thing, and what the witness said were, his
18 words, that there were also some
19 discussions of approaches toward a
20 negotiation.

21 He is trying to conflate it all
22 as if this happening overlapping and
23 simultaneously, and that really creates a
24 very misleading record of what happened
25 there. I haven't said this in front of

1 A. GUERRA BASTIDAS

2 the witness, but the fact of the matter is
3 that the witness testified the only
4 discussions in Chicago had to do with
5 approaches towards a negotiation and
6 whatever happened, a declaration happened,
7 and then --

8 THE SPECIAL MASTER: Mr. Mastro,
9 what the witness testified about the
10 approaches were in response to his
11 question as to term sheets. I can't do
12 this, unlike my associate, but I think the
13 witness had acknowledged that there were
14 negotiations going on.

15 In response to the question as
16 to whether or not term sheets were
17 created, I think the witness raised the
18 point about approaches.

19 MR. MASTRO: No, your Honor,
20 with all due respect --

21 THE SPECIAL MASTER: Then show
22 me the transcript. I asked for a printer
23 to print out questions precisely because I
24 cannot do this scrolling.

25 MR. MASTRO: Your Honor, before

1 A. GUERRA BASTIDAS

2 he used the word "term sheets," which I
3 objected to because I thought it was very
4 misleading to a witness who doesn't know
5 what term sheets means.

6 THE SPECIAL MASTER: Look, I
7 let it go because he should have asked, do
8 you know what a term sheet is, etc. I
9 don't want to be here half the night.

10 MR. MASTRO: I don't either,
11 your Honor, but this is an important
12 point.

13 THE SPECIAL MASTER: Let me
14 see -- let me see where the term
15 "negotiations" first came up.

16 MR. MASTRO: It is 173, line 15
17 on. The question is he has shown him the
18 agreement and he has asked him who he
19 negotiated the agreement with during
20 meetings in Chicago, and he responds "In
21 November in Chicago there were approaches
22 towards a negotiation."

23 THE SPECIAL MASTER: Let me see
24 it. He is trying to help me find it.

25 MR. MASTRO: Certainly, your

1 A. GUERRA BASTIDAS

2 Honor.

3 THE SPECIAL MASTER: I've got
4 it. I'm there now. Hold on. Let me read
5 this.

6 I'm sorry, in this case
7 Mr. Mastro is right. He never adopted
8 your term "negotiations" which you
9 repeated several times even after he said
10 there were approaches to a negotiation.
11 The witness never adopted that word.

12 Now I should have just
13 sustained the objection as to form on the
14 last question, the previous question, on
15 two grounds, not simply that you would
16 assume there was a negotiation about --
17 don't raise your hand to me yet,
18 Mr. Veselka. I would like to finish.

19 The witness not having adopted
20 your term, but instead said what
21 Mr. Mastro says he said, I think it may
22 well be overstating to call it a
23 negotiation and it may therefore be
24 conflating things.

25 Wait, wait. A, if you suggest

1 A. GUERRA BASTIDAS

2 that they were negotiating a declaration,
3 I'm not going to let you ask that question
4 again unless, you know, you ask the
5 question did you negotiate a
6 declaration --

7 MR. MASTRO: You mean
8 negotiation of an agreement.

9 THE SPECIAL MASTER: No, no.

10 MR. VESELKA: The question now
11 is the declaration, that's right.

12 THE SPECIAL MASTER: I
13 understand that. Well, you know what, why
14 don't we do this, this is not that hard.

15 "Question: Did you discuss --
16 did you work on a declaration when you
17 were in Chicago in November?" Period,
18 stop, end. Go.

19 MR. VESELKA: Which I thought
20 was all I was asking.

21 THE SPECIAL MASTER: That I
22 will allow.

23 MR. VESELKA: For the purposes
24 of the record of the discussion we just
25 had, though, I would like to point out

1 A. GUERRA BASTIDAS

2 that the witnesses answers, "There were
3 sheets that I used in Spanish where I
4 wrote down the essence of the proposal and
5 of what was being discussed. I don't
6 recall, but initially I assumed I could
7 negotiate for strong amounts of money."

8 So he is talking about
9 negotiations. He is talking about sheets.
10 But then I switched over separately --

11 MR. MASTRO: Actually, it is
12 why I objected to the form. He is talking
13 about a sheet of paper like this where he
14 took some notes, not a term sheet. This
15 is so misleading, and they use this, your
16 Honor, to say the nastiest, vilest things
17 about our firm.

18 THE SPECIAL MASTER: A, he is
19 not going to say any more nasty things
20 about your firm, not in my presence.

21 MR. GOMEZ: Mr. Gitter, I don't
22 think anyone said anything about
23 Mr. Mastro's firm.

24 THE SPECIAL MASTER: Stop,
25 stop. I'm going to impose the rule I had

1 A. GUERRA BASTIDAS

2 imposed once before. If any of you wants
3 to say something nasty or critical about
4 your opposing counsel, you may not say it
5 to his or their face, you have to say it
6 to me privately, and I will convey it in
7 my own words.

8 Is that rule understood by
9 everyone?

10 MR. GOMEZ: Yes.

11 THE SPECIAL MASTER: Good.

12 Now bring the witness back,
13 and, if necessary, I will ask the
14 questions to make sure they are
15 appropriate and there will not be anything
16 misleading. Agreed?

17 MR. VESELKA: Absolutely.

18 (Witness returns to the room.)

19 THE VIDEOGRAPHER: Back on the
20 record, 5:38 p.m.

21 THE SPECIAL MASTER: I'm going
22 to do it, that way we will avoid
23 objections, I hope, and just move things
24 faster. And if I have omitted what you
25 are getting at --

1 A. GUERRA BASTIDAS

2 MR. VESELKA: That will be
3 fine. That will be fine.

4 THE SPECIAL MASTER: Good.

5 Does somebody have the date of
6 the November declaration?

7 MR. VESELKA: November 17,
8 2012.

9 THE SPECIAL MASTER: Is it
10 correct that you were in Chicago with
11 Chevron people between November 15 and
12 November 19, 2012?

13 THE WITNESS: That's true.

14 THE SPECIAL MASTER: And in the
15 middle of that period, on November 17, you
16 signed a declaration, correct?

17 THE WITNESS: Yes.

18 THE SPECIAL MASTER: Before you
19 signed that declaration on November 17th,
20 while in Chicago, did you work on that
21 declaration?

22 THE WITNESS: I worked on the
23 declaration, yes.

24 THE SPECIAL MASTER: Okay,
25 done. End of story. Move on to another

1 A. GUERRA BASTIDAS

2 subject, Mr. Veselka.

3 MR. VESELKA: The one follow-up
4 I would want to ask, if I may, and you
5 could tell me, is:

6 Q. Who drafted the various
7 versions of the declaration?

8 THE SPECIAL MASTER: I will let
9 you ask that question.

10 THE WITNESS: May I answer?

11 THE SPECIAL MASTER: Yes.

12 THE INTERPRETER: I need to
13 inquire. I'm asking the word "elements,"
14 if it means individuals or machines.

15 A. Chevron had several
16 instruments, meaning recordings of the
17 conversations with me which they had been
18 recorded, and initially in Chicago I
19 summarized the subject matter in a more
20 formal way starting with my first name and
21 my surname, my whole life, my involvement
22 in the case, the whole thing, and based on
23 all this information a legal team from
24 Chevron in another place in a different
25 office from where we were meeting

1 A. GUERRA BASTIDAS

2 initially, they were working on the draft
3 of each one of the subjects.

4 They would bring them to me.
5 We would discuss the terms. I would
6 request that changes be made, and finally
7 I was in agreement because I saw that it
8 was a good job, complete, and I finally --
9 I'm sorry, concrete, not complete -- and I
10 finally signed.

11 THE SPECIAL MASTER: You have
12 your answer.

13 Q. With regard to the elements
14 that ultimately got included in the
15 agreement in January --

16 THE SPECIAL MASTER: Wait a
17 second. Are you switching now?

18 MR. VESELKA: I'm switching.

19 THE SPECIAL MASTER: He used
20 the word "elements" in connection with the
21 declaration. I'm not going to let you
22 mislead -- I don't mean deliberately, of
23 course -- I'm not going to let you ask
24 questions that may have the effect of
25 misleading the witness, okay? We have a

1 A. GUERRA BASTIDAS

2 foreign witness.

3 Q. At the conclusion of the
4 meetings with the Chevron lawyers,
5 Mr. Jose and Mr. Mastro, with regard to
6 the terms of what was ultimately turned
7 into the agreement, were the compensation
8 portions essentially agreed to by the end
9 of those meetings?

10 MR. MASTRO: Objection to form.
11 Asked and answered. Mischaracterizes his
12 prior testimony.

13 THE SPECIAL MASTER: Wait a
14 second. Are you talking about the January
15 27th agreement?

16 MR. VESELKA: Yes, sir.

17 THE SPECIAL MASTER: Do I have
18 to really go back all the way to the
19 discussions of that agreement and the
20 terms -- and the various terms?

21 Will somebody please show me,
22 work the machine, please, and show me what
23 there is about the negotiation of that
24 agreement, and particularly the
25 compensation terms.

1 A. GUERRA BASTIDAS

2 MR. MASTRO: Page 173, line 15.

3 THE SPECIAL MASTER: I think
4 you are taking me to the November
5 approaches to negotiation.

6 MR. MASTRO: And he is trying
7 to conflate --

8 THE SPECIAL MASTER: I
9 understand.

10 MR. VESELKA: I'm not trying --

11 THE SPECIAL MASTER: Stop. Let
12 me just read and then we will get to the
13 question that is pending.

14 MR. VESELKA: I would rather
15 withdraw it and try to go on and do it a
16 more specific way.

17 THE SPECIAL MASTER: Go ahead.

18 Q. Under your agreement with
19 Chevron, Chevron is paying you \$10,000 a
20 month, correct, among other things?

21 A. Chevron is giving me \$12,000
22 per month for cooperating, according to
23 the agreement.

24 Q. Had you arrived at that number
25 as an approach that you would be paid

1 A. GUERRA BASTIDAS

2 monthly payments that would add up to
3 \$12,000 by the end of your discussions in
4 Chicago in November?

5 MR. MASTRO: Objection to form.

6 THE SPECIAL MASTER: You may
7 answer.

8 A. After the conversations we
9 agreed to that amount, they agreed to that
10 amount, I accepted it, and it was agreed
11 that it would be the final amount.

12 Q. The January agreement also
13 provides for Chevron to pay for an
14 independent attorney to represent you.

15 Had that already been agreed
16 upon, had you arrived to that as an
17 approach in the discussions in November?

18 MR. MASTRO: Objection to form,
19 your Honor, and I need to speak to you,
20 please.

21 THE SPECIAL MASTER: All right,
22 send the witness out again.

23 THE VIDEOGRAPHER: Off the
24 record, 5:48 p.m.

25 (Witness departs the room.)

1 A. GUERRA BASTIDAS

2 MR. MASTRO: I think the
3 question, that is why I objected to it,
4 was confusing for him because he said we
5 discussed approaches. There was no
6 agreement on an amount agreed to of
7 \$12,000 in Chicago. The witness has never
8 testified to that.

9 And I think, you know, he has
10 been confused by the line of questioning.
11 He said approaches were discussed in
12 Chicago at the end of the Chicago period
13 and then negotiations continued
14 thereafter. He is now trying to create a
15 record as if there was agreement in
16 Chicago when the witness previously
17 testified all they discussed were
18 approaches to negotiation. Even the
19 answer he gave, "after the conversations,
20 we agreed to that amount, they agreed to
21 that amount, and I accepted it."

22 It was conversations over a
23 period of weeks. It was not in Chicago.
24 It was not in November in Chicago. And
25 the witness, if asked the question, would

1 A. GUERRA BASTIDAS

2 say that.

3 THE SPECIAL MASTER: Let me
4 just see what the witness just answered
5 about the \$12,000.

6 He is right. His answer was --
7 your question was "Had you arrived at that
8 number as an approach that you would be
9 paid monthly payments by the end of your
10 discussions in Chicago?" "Answer: After
11 the conversations, we agreed to that
12 amount, they agreed to that amount."

13 MR. MASTRO: As long as the
14 record is crystal clear. Because I don't
15 want anyone quoting this back and saying
16 that that was agreed upon in Chicago in
17 November, because it wasn't, I know it,
18 his own counsel knows it, and I want to
19 make sure the record is crystal clear.

20 MR. VESELKA: Do I get to
21 address the issue?

22 THE SPECIAL MASTER: Of course
23 you do. I'm just learning how to read
24 this, and I just read it, and what it says
25 is:

1 A. GUERRA BASTIDAS

2 "Question: Had you arrived at
3 that number as an approach that you would
4 be paid monthly payments that would add up
5 to \$12,000 by the end of your discussions
6 in Chicago in November?

7 "Objection as to form.

8 "Special Master. You may
9 answer.

10 "Answer: After the
11 conversations, we agreed to that amount,
12 they agreed to that amount, I accepted it,
13 and it was agreed that it would be the
14 final amount."

15 MR. VESELKA: That does not
16 mean it is not in November. The
17 discussions are there, after those
18 discussions in November he can be saying
19 that. I asked him. He gave an answer.
20 If they think it is wrong, they can
21 testify themselves --

22 THE SPECIAL MASTER: I don't
23 understand what you are saying. Are you
24 interpreting his words "after the
25 conversations" as meaning they had agreed

1 A. GUERRA BASTIDAS

2 in November? If you are --

3 MR. VESELKA: That's the way I
4 understood him to say it. I was listening
5 to him and I heard him, and he said we
6 discussed it and we arrived at that. I
7 know it is not put until the final version
8 until the contract is signed. But that's
9 what I understand him to say.

10 THE SPECIAL MASTER: If that's
11 what your understanding is, that's not
12 what the witness said.

13 MR. GOMEZ: Mr. Gitter, may I
14 make a suggestion?

15 THE SPECIAL MASTER: Yes.

16 MR. GOMEZ: Could we just go
17 through the agreement and just ask the
18 witness, did you agree to this term in
19 Chicago?

20 THE SPECIAL MASTER: Why don't
21 we do it just for absolute clarity, what
22 I'm going to do is I'm going to ask the
23 questions and I'm going to say let's go
24 through this.

25 How many terms do you want to

1 A. GUERRA BASTIDAS

2 go through?

3 MR. GOMEZ: All of them.

4 THE SPECIAL MASTER: When, to
5 the best of your recollection, was this
6 agreed to, is the question.

7 MR. GOMEZ: I think we can be
8 precise. Was it at the meeting.

9 THE SPECIAL MASTER: Why don't
10 we begin with --

11 MR. VESELKA: All I was trying
12 to go through, they essentially have four
13 compensation provisions here, and I was
14 just trying to determine if they were
15 agreed to in principle in November. I
16 thought that's what he said.

17 THE SPECIAL MASTER: That's not
18 what he said. He said "after the
19 conversation."

20 MR. STEWART: And your question
21 was "after the conversations in November."

22 THE SPECIAL MASTER: No, it
23 isn't. His question was had you arrived
24 at that number as an approach that you
25 would be paid monthly payments by the end

1 A. GUERRA BASTIDAS
2 of your discussions in Chicago in
3 November. And he said after the
4 conversations.

5 By the way, Mr. Translator,
6 when you translate "discussions," does
7 that translate in Spanish into something
8 closer to "conversation"?

9 THE INTERPRETER: Yes.

10 THE SPECIAL MASTER: It is the
11 same?

12 THE INTERPRETER: Yes.

13 THE SPECIAL MASTER: Then
14 Mr. Mastro is right. Mr. Mastro is right.
15 The witness testified that he had the
16 agreement on the \$12,000 after the
17 discussions. You said the discussions in
18 November. He said after the discussions.

19 And if you have a different
20 understanding, then that threatens that
21 other people may have the same
22 understanding. Because my understanding
23 from reading the document, that is the
24 transcript, and from what the translator
25 just told me, it is after the discussions.

1 A. GUERRA BASTIDAS

2 MR. VESELKA: If you and I talk
3 and negotiate for two hours and at the end
4 of those two hours we say okay, we are
5 going to agree to this, that's after those
6 discussions, but that's still in the same
7 time frame.

8 THE SPECIAL MASTER: Not
9 necessarily.

10 MR. GOMEZ: Then let's ask the
11 witness, Mr. Gitter.

12 THE SPECIAL MASTER: That's
13 fine. Let me ask it. Do you want to do
14 it?

15 MR. GOMEZ: Was that term
16 decided in Chicago? Was that term decided
17 in Chicago?

18 THE SPECIAL MASTER: Mr. Gomez,
19 this is a game of singles, not doubles. I
20 told you that before. And we have had
21 that problem before. The person speaking
22 on your behalf is not you, the person
23 speaking on your behalf is your co-counsel
24 who is asking the questions.

25 MR. MASTRO: May I just go very

1 A. GUERRA BASTIDAS

2 quickly to --

3 THE SPECIAL MASTER: I tell you
4 what we are going to do. We are going to
5 take a very short break so people cool
6 down.

7 Before we do that, I want to
8 think about how to do this fairly to you
9 and the other side.

10 MR. VESELKA: One, I want to
11 make sure our e-mail got here about
12 Zambrano.

13 MR. MASTRO: It did. We will
14 be communicating with you about that.

15 MR. VESELKA: Secondly, I don't
16 want to spend 15 minutes on this. I have
17 only got an hour left. I have other
18 things I have to hit quickly on. That's
19 why I thought we were just going to hit
20 the few concepts, whether those were there
21 or not.

22 THE SPECIAL MASTER: Okay.

23 (Recess taken.)

24 THE VIDEOGRAPHER: We are going
25 back on the record at 6:03 p.m. This is

1 A. GUERRA BASTIDAS

2 the beginning of disk six in the
3 deposition of Alberto Guerra Bastidas.

4 THE SPECIAL MASTER: Mr.
5 translator, what is the Spanish word for
6 "discussions" and what is the Spanish word
7 for "conversations," if they are two
8 different words? Are they two different
9 words?

10 What do you use when you tell
11 him -- if Veselka asks about discussions,
12 what do you say to the witness, what
13 Spanish word do you use to the witness and
14 what word does he use in response?

15 THE INTERPRETER: I would say
16 the equivalent of conversation, because
17 "discutir" is to argue and it has that
18 connotation. So it is a conversation.

19 THE SPECIAL MASTER: Okay. Let
20 me go. Let the record show that
21 Mr. Veselka is shaking his head.

22 Mr. Guerra, I'm going to go
23 through four compensation terms in your
24 agreement dated January 27. Would you
25 take that agreement, put that agreement

1 A. GUERRA BASTIDAS

2 before the witness.

3 THE WITNESS: Gladly.

4 THE SPECIAL MASTER: This was
5 signed on January 27th, correct, January
6 27 of this year?

7 THE WITNESS: Yes.

8 THE SPECIAL MASTER: With the
9 help of your attorney, Mr. Clayman?

10 THE WITNESS: Mr. Clayman was
11 advising me regarding this issue, yes.

12 THE SPECIAL MASTER: Now, would
13 you please turn to page 3 of this
14 agreement. I want you to look at (a) and
15 (b) together, that is \$12,000, at the
16 bottom. That's \$12,000 a month?

17 THE WITNESS: Yes.

18 THE SPECIAL MASTER: In your
19 answer to the question of when did you
20 reach a basic agreement about that figure,
21 \$12,000 a month, you answered "after the
22 conversations in Chicago in November." Do
23 you remember that testimony?

24 THE WITNESS: I remember it,
25 yes, that's correct.

1 A. GUERRA BASTIDAS

2 THE SPECIAL MASTER: When you
3 said "after the conversations," did you
4 mean at the end of the conversations or
5 after all those conversations in a time
6 between the conversations and January 27th
7 of this year?

8 THE WITNESS: I mean to say
9 that this agreement, the conversations,
10 this came about one day before I traveled
11 to Quito, November 18th, 2012.

12 THE SPECIAL MASTER: Okay, the
13 end of the conversation.

14 Now, paying for the lawyer,
15 when did that come about? The agreement
16 to pay a lawyer, page 4, it is (c) on the
17 top of page 4. When was that agreed?

18 THE WITNESS: This issue was
19 agreed to in April of 2013, very shortly
20 before I signed the agreement.

21 THE SPECIAL MASTER: You mean
22 in January of 2013?

23 THE WITNESS: Correct, January
24 2013.

25 THE SPECIAL MASTER: Go down on

1 A. GUERRA BASTIDAS

2 page 4, (f), payment for an immigration
3 attorney, when was that agreed to?

4 THE WITNESS: This was agreed
5 to in Chicago in November.

6 THE SPECIAL MASTER: Then the
7 provisions on page 3 at the bottom, (c)
8 and (d), health insurance and a leased
9 automobile comparable to the one he was
10 abandoning in Ecuador, when did that
11 agreement come about, or reached, when was
12 that agreement reached?

13 THE WITNESS: At the end of
14 November -- at the end of the conversation
15 that I had in November.

16 MR. VESELKA: Can you ask about
17 (g) as well? Page 4.

18 THE SPECIAL MASTER: (g), the
19 cost of moving from Ecuador to the United
20 States.

21 THE WITNESS: Only myself or
22 also my sons?

23 THE SPECIAL MASTER: Were the
24 agreements at different times?

25 THE WITNESS: No, for the two

1 A. GUERRA BASTIDAS

2 families, that was agreed to in November.

3 THE SPECIAL MASTER: Okay,
4 done. Move on, Mr. Veselka.

5 BY MR. VESELKA:

6 Q. The declaration that you
7 signed, the first declaration you signed
8 November 17, 2012 in Chicago, that was
9 never notarized, was it?

10 A. I had not had previous
11 experience regarding this and I cannot say
12 if it was notarized, if there was a notary
13 or not. But I didn't go to a notary's
14 office, a place where they had a sign that
15 said notary public, as it is done in my
16 country.

17 Q. You've reviewed your November
18 17th, 2012 declaration to prepare for
19 testifying today?

20 MR. CLAYMAN: Could you just
21 repeat that question? I missed it.

22 MR. VESELKA: I asked if he
23 reviewed the November 17th, 2012
24 declaration in preparation for his
25 deposition.

1 A. GUERRA BASTIDAS

2 MR. CLAYMAN: Thank you.

3 A. Yes.

4 Q. Did you see anything there that
5 you would want to change that you no
6 longer believe is true?

7 A. Could you please repeat the
8 question? Could you clarify it?

9 Q. When you reviewed it, did you
10 see anything that you said there that you
11 would want to change because you no longer
12 believe it to be true?

13 A. No.

14 Q. The same question with regard
15 to your January declaration.

16 A. If I may see the January
17 declaration, please.

18 Q. We will get it. I will move on
19 while they are digging for that.

20 (Guerra Exhibit 9 marked for
21 identification.)

22 THE SPECIAL MASTER: I'm sorry,
23 what's going on?

24 MR. VESELKA: We have to find
25 the Spanish part that's in there for him

1 A. GUERRA BASTIDAS

2 to be able to confirm. Page 4.

3 A. Yes, I have it in mind.

4 Q. Is there anything there that
5 you believe you need to change because it
6 is no longer true?

7 A. From what I understand, what's
8 included here is the issue regarding the
9 -- to this date I have read the totality
10 of the judgment issued in Lago Agrio on
11 February 14th of 2011, a detail which in
12 my initial declaration I had not included
13 or I had not stated that I had done so,
14 that I read the document.

15 Q. And so you still believe
16 everything you say there is true?

17 A. Yes.

18 THE SPECIAL MASTER: So that
19 the record is clear, by the "there" you
20 were pointing to the January --

21 MR. VESELKA: I'm sorry,
22 Exhibit 9.

23 THE SPECIAL MASTER: Exhibit 9,
24 the January 28 declaration?

25 MR. VESELKA: Declaration, yes,

1 A. GUERRA BASTIDAS

2 sir.

3 Q. We are finished with that for
4 now.

5 In addition to the compensation
6 terms included in the agreement that is
7 Exhibit 4, if I remember correctly, you
8 have recently received an additional
9 payment of \$10,000 from Chevron, correct?

10 MR. MASTRO: Objection to form.

11 THE SPECIAL MASTER: You may
12 answer.

13 A. I don't recall an additional
14 payment of \$10,000 that you are referring
15 to. I don't have it in mind.

16 Q. You have also signed a third
17 declaration on April 11, 2013 that you
18 told us about earlier, correct?

19 A. Yes.

20 Q. Is it true that in April you
21 were provided an additional \$10,000, in
22 addition to what is due under the
23 agreement, in exchange for additional bank
24 records and the ayuda memoria, the memory
25 aid, excuse me?

1 A. GUERRA BASTIDAS

2 MR. MASTRO: Objection to form.

3 Q. I want to rephrase it.

4 Have you recently provided to
5 Chevron additional bank records and the
6 memory aid that they asked you to look for
7 and provide to them?

8 A. I did provide, not too long
9 ago, without being able to specify the
10 date, the document entitled memory aid.

11 Q. And do you understand that
12 because of your effort to do that, Chevron
13 has agreed to pay you an additional
14 \$10,000?

15 MR. MASTRO: Objection to form.

16 THE SPECIAL MASTER: You may
17 answer.

18 A. Regarding -- I have not
19 received the \$10,000 you are referring to.
20 I'm being very frank, I have not asked to
21 be given those \$10,000, and
22 coincidentally, yesterday, my attorney,
23 Mr. Clayman, he is the one who told me
24 that Chevron had agreed, was going to
25 compensate me or pay me for additional

1 A. GUERRA BASTIDAS

2 evidence, including the memory aid.

3 Q. When you came to the United
4 States in January, you intended to move to
5 the United States and no longer live in
6 Ecuador, correct?

7 THE SPECIAL MASTER: Asked and
8 answered. It happened very early this
9 morning.

10 Q. You entered the United States
11 under a tourist visa? What type of visa
12 do you have? Let me just make it easier.
13 What type of visa do you have?

14 A. It is a V1/V2 visa, which my
15 understanding is granted to tourists.

16 Q. Is that the same for you and
17 your wife?

18 A. That's the case for my wife,
19 for my son, his wife, and his son, my
20 grandchild, all of us.

21 Q. And you understand that under a
22 tourist visa you can't stay in the United
23 States indefinitely, correct?

24 A. Yes.

25 Q. Have you applied for any other

1 A. GUERRA BASTIDAS

2 type of status in the United States?

3 A. That procedure has not been
4 done yet, but it will be done.

5 Q. What kind are you going to
6 apply for?

7 A. It will be requested that for
8 myself and my family, we may be
9 acknowledged as asylum seekers.

10 Q. Other than paying for your
11 immigration lawyer, Mr. Kurzban, is
12 Chevron doing anything to assist you and
13 your family in any changes in your
14 immigration status?

15 A. I'm sorry, can you please
16 repeat the question, making it specific?

17 Q. You are represented with regard
18 to immigration matters by Mr. Ira Kurzban,
19 correct?

20 A. Yes.

21 Q. Does he represent both you and
22 your wife and your son and his wife and
23 your grandson?

24 A. Yes.

25 Q. And Chevron pays his bills?

1 A. GUERRA BASTIDAS

2 A. It is my understanding that
3 Chevron is paying those bills. I am not
4 doing it.

5 Q. And other than Chevron paying
6 those bills, is there anything else
7 Chevron is doing to help you or your
8 family with regard to your immigration
9 status in the United States?

10 A. The asylum application has not
11 yet been filed before the U.S. government,
12 but I understand that the attorney who is
13 going to do that needs documents,
14 information and documents, and I
15 understand that it will be Chevron who is
16 going to help him obtain part of them to
17 get them.

18 Q. Do you understand that Chevron
19 will be doing any kind of sponsoring for
20 you or any other part of your family?

21 A. Excuse me, can you please
22 clarify your question?

23 Q. Sure.

24 Do you understand that as part
25 of any of your applications with regard to

1 A. GUERRA BASTIDAS

2 asylum or immigration status that Chevron
3 is going to sponsor you or your family?

4 MR. MASTRO: Objection to form.

5 THE SPECIAL MASTER: Do you
6 understand his question?

7 THE WITNESS: If you allow me,
8 forgive me, it is somewhat ambiguous.

9 THE SPECIAL MASTER: Yes, it
10 is. I find it somewhat ambiguous, that's
11 why I asked you the question. For
12 somebody who doesn't speak English, it is
13 probably triply ambiguous.

14 Q. Do you understand that as part
15 of an asylum application whether you need
16 a sponsor that agrees to help provide
17 assistance for you?

18 MR. MASTRO: Objection to form.

19 THE SPECIAL MASTER: I'm sorry,
20 my colleague here actually knows a little
21 bit about immigration law because a lot of
22 our people do.

23 MR. VESELKA: That would be
24 really helpful.

25 THE SPECIAL MASTER: It would

1 A. GUERRA BASTIDAS

2 be. Therefore I don't think you ought to
3 be asking this witness questions of that
4 kind. He has an immigration lawyer. He
5 doesn't know, I'm sure, because you don't,
6 and I don't know what the elements are of
7 a political asylum application.

8 MR. VESELKA: The question was
9 did he understand one way or the other.

10 THE SPECIAL MASTER: No, no,
11 you asked him about sponsorship.

12 MR. VESELKA: I asked him
13 whether he understood whether he needed a
14 sponsor.

15 THE SPECIAL MASTER: Do you
16 understand what a sponsor is? And I will
17 bet you \$100 that this witness doesn't
18 understand what a sponsor is because it is
19 a term of art. Maybe my associate does.
20 I don't.

21 Next question, do you know if a
22 sponsor is needed in connection with an
23 asylum application.

24 MR. VESELKA: That's what I was
25 asking, I thought.

1 A. GUERRA BASTIDAS

2 THE SPECIAL MASTER: No, that's
3 not what you asked.

4 MR. VESELKA: I will ask it.

5 BY MR. VESELKA:

6 Q. Do you understand whether there
7 is a sponsor needed with regard to an
8 asylum application?

9 THE SPECIAL MASTER: No. Do
10 you know what a sponsor is in terms of
11 asylum law?

12 THE WITNESS: No.

13 THE SPECIAL MASTER: Move on.

14 Q. How long do you understand you
15 can stay in the United States before you
16 must get some other status?

17 MR. MASTRO: Objection,
18 foundation.

19 THE SPECIAL MASTER: No, he can
20 answer.

21 A. A total of 180 days, starting
22 from the date when I came to the United
23 States.

24 Q. Is Mr. Kurzban or anybody else
25 also trying to do anything to help resolve

1 A. GUERRA BASTIDAS

2 the status of your son who has been living
3 in the United States?

4 A. Not yet. There is a
5 predisposition to do that, but for the
6 time being they are concentrated and
7 focused on the documentation for those of
8 us who are right from Ecuador.

9 Q. First things first.

10 In your meetings with the
11 Chevron representatives, you told them
12 that you became ill after drinking
13 contaminated water in Sacha, correct?

14 MR. MASTRO: Objection to form,
15 and it is irrelevant. And I would like to
16 be heard on this.

17 THE SPECIAL MASTER: You may
18 not need to be heard because I know this
19 lawsuit is not about the underlying issues
20 in Ecuador.

21 Mr. Veselka, I really don't
22 want to take another break and send the
23 witness out of the room and add to
24 everybody's time here. It is 20 to 7.
25 Witnesses tend to get tired actually at 5

1 A. GUERRA BASTIDAS

2 o'clock and 6 o'clock. I think the
3 relevance of the question you are asking
4 is at best marginal. I don't think it is
5 needed. If you will be kind enough to
6 move on without my forcing you to do so, I
7 would appreciate it. Because otherwise we
8 are going to have to --

9 MR. VESELKA: I don't want to
10 take a break. Let's mark this, please.

11 (Guerra Exhibit 10 marked for
12 identification.)

13 Q. You have been handed what has
14 been marked as Exhibit 10. If you turn,
15 the first part is a translation into
16 English, but if you go past the portion of
17 the translator's statement, you will get
18 to the part in Spanish.

19 MR. MASTRO: Is this going to
20 be identified for the record? It has
21 never been produced to us.

22 THE SPECIAL MASTER: The first
23 thing I would like to know is, what is it?

24 MR. VESELKA: That of course is
25 what I was going to ask him. For him, he

1 A. GUERRA BASTIDAS

2 was going to want to see the Spanish part.

3 I'm trying to get him to see there. Has

4 he found it, the Spanish part?

5 MR. CLAYMAN: What's the

6 question?

7 Q. Is he ready?

8 A. Yes, I have it. I have seen

9 it.

10 Q. Can you identify this is a

11 paper that you wrote entitled Sobre El

12 Medio Ambiente Amazonico Del Ecuador?

13 MR. MASTRO: And I object to

14 any questioning on this line for the same

15 reasons. Regardless of who the author of

16 it is, it is irrelevant to the case and he

17 shouldn't be questioned on it.

18 MR. VESELKA: It ties into

19 other issues.

20 THE SPECIAL MASTER: To what

21 other issues?

22 MR. MASTRO: They also never

23 produced it to us in the case.

24 THE SPECIAL MASTER: If it is

25 relevant, just a second, if it is

1 A. GUERRA BASTIDAS

2 relevant --

3 MR. VESELKA: I don't want to
4 talk about it in front of him.

5 THE SPECIAL MASTER: If it is
6 relevant, why wasn't it produced? I'm
7 asking you.

8 MR. VESELKA: They haven't
9 asked us to produce Guerra documents.

10 MR. MASTRO: Yes, we have.

11 MR. STEWART: It was produced
12 to us by them on his hard drive.

13 MR. VESELKA: It came from his
14 hard drive when they produced it to us.

15 THE SPECIAL MASTER: We are
16 going to have to take a break, I'm sorry.
17 I want to know what the relevance of this
18 is.

19 MR. VESELKA: Okay.

20 THE VIDEOGRAPHER: Off the
21 record, 6:40 p.m.

22 (Witness departs the room.)

23 THE SPECIAL MASTER: I may
24 charge this time to you; do you
25 understand?

1 A. GUERRA BASTIDAS

2 MR. VESELKA: Why?

3 THE SPECIAL MASTER: Because on
4 the face of it, it doesn't look relevant
5 to me, and I will see what you say.

6 MR. VESELKA: When he was
7 working on various things, it ties into
8 when and why he may have requested
9 particular information from Mr. Fajardo
10 that he is now trying to claim is
11 something different. I really don't want
12 to have to disclose to opposing counsel.

13 MR. MASTRO: It is all entirely
14 about --

15 THE SPECIAL MASTER: Just a
16 second. Just a second. Information about
17 what?

18 MR. VESELKA: About the case,
19 the Lago Agrio case.

20 THE SPECIAL MASTER: Can you
21 tell me when this was created? Do you
22 know when it was created?

23 MR. VESELKA: We know from
24 pulling it from the things, and I'm trying
25 to remember.

1 A. GUERRA BASTIDAS

2 MR. GOMEZ: The metadata, we
3 have from the metadata.

4 MR. MASTRO: What's the date?

5 MR. VESELKA: Off the top of my
6 head, I'm not remembering. My memory was
7 I thought it was '09.

8 MR. MASTRO: During the period
9 when he was still part of the conspiracy?
10 It appeared he was being paid 1,000 bucks
11 a month from Fajardo and company. This is
12 all about the underlying merit of the Lago
13 case and the science, exactly what Judge
14 Kaplan said was out during the period he
15 was being paid by them.

16 THE SPECIAL MASTER: From what
17 you just said, it can't mean -- it can't
18 be relevant to what you are saying it is
19 relevant to. Fajardo is a lawyer. He is
20 not a scientist. He is far from a
21 scientist, just as you and I are far from
22 scientists.

23 MR. VESELKA: My point is they
24 are trying to create --

25 THE SPECIAL MASTER: I tell you

1 A. GUERRA BASTIDAS

2 what, I want to hear an offer of proof in
3 camera. I want an offer of proof in
4 camera as to what is going to happen as a
5 result of this examination with this
6 document. You can leave the room. It
7 will be in camera and it will be sealed.

8 MR. MASTRO: I simply want to
9 reiterate --

10 THE SPECIAL MASTER: Come on, I
11 don't need to hear from you right now.
12 And I want a demonstration as to when this
13 was created. This will be sealed and
14 separately printed.

15 (The following portion was
16 sealed and is bound in separate
17 transcript.)

18 THE SPECIAL MASTER: Mr. Mastro,
19 you will be able to object in the course
20 of it. I'm going to allow very limited
21 questioning for a very specific purpose
22 which could be relevant independent of the
23 underlying merits of the Ecuador
24 litigation. I may have to take over the
25 questioning to make certain he doesn't go

1 A. GUERRA BASTIDAS

2 out of bounds.

3 MR. MASTRO: Your Honor, might
4 I suggest that we think any questioning on
5 this document would be wholly
6 inappropriate and it is irrelevant. I
7 think your Honor would benefit from us
8 being able to brief the question, and if
9 your Honor decided there was some limited
10 questioning that was necessary at that
11 point, we would have to bring him back for
12 that purpose.

13 THE SPECIAL MASTER: That is
14 fair. That is fair. This could get out
15 of hand here. The witness will be called
16 back for 20 minutes at some point on some
17 other day when everybody is in New York
18 and here. Nobody is going to have to
19 spend any additional time traveling.

20 MR. VESELKA: Can we have him
21 go ahead and just identify that it is his
22 document or not?

23 THE SPECIAL MASTER: Yes, you
24 can do that.

25 MR. VESELKA: And that's it?

1 A. GUERRA BASTIDAS

2 THE SPECIAL MASTER: That's all
3 you can do.

4 MR. STEWART: And the date.

5 THE SPECIAL MASTER: I'm sorry,
6 you just demonstrated to me how difficult
7 it is to determine when it is created.
8 There is not any way I'm going to allow
9 you to do a memory test on this witness.

10 MR. VESELKA: I'm not going to
11 ask about the others.

12 THE SPECIAL MASTER: I am. If
13 we are going to get briefing on it, then
14 we are going to get it identified so I can
15 get briefing that is intelligible on the
16 subject. I want the object here to be
17 plain enough so that there can be
18 intelligent briefing. The briefing is not
19 going to be in camera, you understand. I
20 have your offer of proof.

21 I will allow -- in fact, let me
22 do this.

23 THE VIDEOGRAPHER: Stand by.

24 We are going back on the record at
25 p.m.

1 A. GUERRA BASTIDAS

2 THE SPECIAL MASTER: Show him
3 an Exhibit 10 that doesn't have a date on
4 it at the top or anywhere else.

5 THE INTERPRETER: Just to make
6 sure, it starts here (indicating)?

7 THE SPECIAL MASTER: The
8 Spanish starts at wherever it starts.

9 THE INTERPRETER: Paragraph 1,
10 under a heading.

11 THE SPECIAL MASTER: The
12 witness has been handed Exhibit 10.
13 Mr. Guerra, could you just take a few
14 minutes to look over this document. And
15 my question is going to be very simple:
16 Do you recognize it?

17 (Witness perusing document.)

18 THE WITNESS: I recognize it.

19 THE SPECIAL MASTER: What is
20 it?

21 THE WITNESS: It is an outline,
22 if you want to call it that, the outline
23 of a chat for students. It was the
24 outline for a complaint, it is an
25 attachment to the judiciary council,

1 A. GUERRA BASTIDAS

2 before judicial officers in my country,
3 more or less.

4 THE SPECIAL MASTER: Did you
5 prepare this?

6 THE WITNESS: A good part of it
7 I prepared.

8 THE SPECIAL MASTER: Who else
9 prepared it?

10 THE WITNESS: Mr. Fernando
11 Alban contributed with some elements.

12 THE SPECIAL MASTER: Do you
13 know approximately when it was prepared,
14 approximately?

15 THE WITNESS: This document was
16 prepared in 2012, the reason being that I
17 was in Sacha, but its first part was
18 prepared years before or some time before,
19 and for the purpose was a speech --

20 MR. MASTRO: Your Honor --

21 THE SPECIAL MASTER: Shhhh.

22 THE WITNESS: -- regarding the
23 death of my father.

24 THE SPECIAL MASTER: When did
25 your father die?

1 A. GUERRA BASTIDAS

2 THE WITNESS: My father died in
3 1985.

4 THE SPECIAL MASTER: This
5 document is absolutely irrelevant. I
6 don't need briefing.

7 MR. MASTRO: Thank you, your
8 Honor.

9 THE SPECIAL MASTER: It is
10 absolutely irrelevant for the purpose
11 which you just described in camera. The
12 dates have nothing whatsoever to do with
13 the purpose for which you want to
14 introduce it.

15 MR. MASTRO: Your Honor, I
16 would move to strike the entire part of
17 that deposition and it should be stricken
18 from the record.

19 THE SPECIAL MASTER: It is
20 stricken.

21 MR. MASTRO: The documents
22 should be stricken.

23 THE SPECIAL MASTER: The
24 documents will be stricken.

25 MR. VESELKA: My objection is

1 A. GUERRA BASTIDAS

2 noted.

3 THE SPECIAL MASTER: Fine. You
4 could submit a brief or do whatever you
5 like. I'm glad -- excuse me.

6 MR. MASTRO: I'm sorry.

7 THE SPECIAL MASTER: I'm glad I
8 asked for your offer of proof and I'm glad
9 I asked the witness about this, because it
10 simply has no bearing whatsoever on your
11 theory.

12 MR. MASTRO: Your Honor,
13 further, this should come out of their
14 time, so they should only have ten minutes
15 left.

16 THE SPECIAL MASTER: I'm taking
17 back the ten minutes. This was a -- no,
18 I'm going to split the baby on the ten
19 minutes.

20 MR. MASTRO: So he has five
21 minutes left.

22 THE SPECIAL MASTER: I am not
23 taking out this -- I'm the one that called
24 for the offer of proof. He has 25 minutes
25 left.

1 A. GUERRA BASTIDAS

2 MR. MASTRO: Less than 25.

3 THE SPECIAL MASTER: He has
4 less than 25 minutes left.

5 MR. MASTRO: He only has about
6 15 minutes left.

7 THE VIDEOGRAPHER: Right.

8 THE SPECIAL MASTER: Oh, I see,
9 we have just used up a bunch of minutes.
10 All right, this is stricken.

11 (Guerra Exhibit 11 marked for
12 identification.)

13 BY MR. VESELKA:

14 Q. Let me hand you what has been
15 marked as Exhibit 11.

16 Mr. Guerra, this is a copy of
17 the notice and subpoena for your
18 deposition and for you to produce
19 documents.

20 Have you reviewed all of your
21 documents to see what you might have that
22 would be responsive to this subpoena
23 requesting documents?

24 THE SPECIAL MASTER: Excuse me,
25 did you serve him with a Spanish version

1 A. GUERRA BASTIDAS

2 of this?

3 MR. VESELKA: I don't believe
4 we did.

5 THE SPECIAL MASTER: Is the
6 version he has in front of him a Spanish
7 version?

8 MR. VESELKA: No.

9 THE SPECIAL MASTER: So how can
10 you ask him a question about this
11 document? He doesn't speak English, he
12 doesn't read English, and he has got a
13 lawyer here.

14 (Guerra Exhibit 12 marked for
15 identification.)

16 Q. Exhibit 12 is the documents we
17 received from your counsel in response to
18 the subpoena.

19 THE SPECIAL MASTER: Well,
20 that's not correct. It has to be a prior
21 version of the subpoena. This subpoena is
22 dated April the 26th and the cover letter
23 for the documents on Exhibit 12 is April
24 5.

25 So obviously you are talking

1 A. GUERRA BASTIDAS
2 about a prior version of the subpoena and
3 you are representing that the document
4 portion is identical on this --

5 MR. VESELKA: If you look at
6 the notice, your Honor, page 2 of the
7 notice, the last paragraph, Mr. Clayman
8 agreed, once we sent this, that it would
9 apply to the others.

10 THE SPECIAL MASTER: That is
11 fine. I wasn't questioning that. I just
12 like to be sure the record accurately
13 reflects what is being marked.

14 MR. VESELKA: Because of the
15 language issue, and I'm not trying to go
16 through and invade privilege, all I want
17 to know, ask a straightforward question,
18 does he know of any documents in his
19 possession that haven't been reviewed or
20 made available to his lawyers to review
21 for production.

22 THE SPECIAL MASTER: That's a
23 perfectly straightforward and normal
24 question. You may ask it.

25 Q. You can answer. There is no

1 A. GUERRA BASTIDAS

2 objection.

3 MR. MASTRO: So the question is
4 have you reviewed all of your documents to
5 see what you might have that would be
6 responsive to the subpoena requesting
7 documents, is that the pending question?

8 MR. VESELKA: The question is
9 what it was, which the Master has already
10 said was a perfectly appropriate question.

11 THE SPECIAL MASTER: I now see
12 the phrasing is a little confusing. Go
13 ahead and have him answer the question as
14 best he can.

15 THE WITNESS: Knowing that
16 countless documents have been requested,
17 they were specified in some document, to
18 which I had access through my attorney,
19 Chuck Clayman, I requested to have sent
20 over from where I am living with my family
21 to have a good -- all the existing
22 documents, personal and family documents.

23 The only thing that didn't make
24 it here are the family pictures, and it
25 has been my attorney and Chevron's

1 A. GUERRA BASTIDAS

2 representatives who have reviewed the
3 documentation, and they may have
4 discounted that among that there should be
5 any that should be submitted in this case.

6 Q. Do you still have your notes
7 from the meetings in Chicago in November?

8 A. No, they were thrown -- they
9 were thrown away.

10 Q. Did you make notes of any of
11 your meetings or phone calls with Chevron
12 representatives like Mr. Rivero or
13 Mr. Akerman from June of 2012 up until you
14 went to Chicago in November of 2012?

15 A. I wrote down in my personal
16 daily planners certain of those meetings
17 or encounters of that nature, not all of
18 them, but...

19 Q. You say the notes from November
20 were tossed. When were they tossed?

21 A. They were loose sheets,
22 information that I had written down, and
23 after informing regarding the tentative
24 agreements, because that's what they
25 contained, specifically to my wife, I

1 A. GUERRA BASTIDAS

2 tossed them.

3 Q. When did you toss them?

4 MR. MASTRO: If he recalls.

5 A. I don't recall specifically,
6 but the day before returning to Quito.

7 Q. While Zambrano was still
8 presiding judge, he issued 21 orders and
9 rulings in the Chevron case between
10 October 2010 and February 2011. Did you
11 work on those?

12 MR. VESELKA: I'll rephrase it
13 if you want.

14 THE SPECIAL MASTER: No, you
15 are going to withdraw it, is what you are
16 going to do, because you are testifying
17 here. How do you know that that's how
18 many orders he issued?

19 MR. VESELKA: That's the
20 record. But I will reword it a different
21 way.

22 Q. Did you work, perform any work
23 on any orders or rulings of Mr. Zambrano
24 in the Chevron case between October 2010
25 and February 2011?

1 A. GUERRA BASTIDAS

2 THE SPECIAL MASTER: You mean
3 other than what he has already testified
4 to? In addition to what you have
5 testified to before, otherwise it is an
6 asked and answered question.

7 Q. Other than anything that you
8 have testified to before with regard to
9 the judgment.

10 THE SPECIAL MASTER: Go ahead.

11 MR. VESELKA: I'm trying to.
12 We are being distracted here.

13 THE SPECIAL MASTER: Go ahead.

14 Q. Other than what you have
15 testified about work on the draft
16 judgment, did you work on any orders or
17 rulings that Mr. Zambrano issued in the
18 case between October 2010 and February
19 2011?

20 MR. MASTRO: Objection to form
21 still.

22 THE SPECIAL MASTER: No, go
23 ahead.

24 A. At that time I would draft the
25 court orders that Judge Zambrano was

1 A. GUERRA BASTIDAS

2 asking me to do. The majority of them I
3 issued, I worked on them in Lago Agrio,
4 and on some occasions if I didn't work on
5 them personally and directly, then over
6 the phone I guided Mr. Zambrano to do so.

7 So therefore somehow I'm also
8 responsible for the clarification court
9 order which is issued after February 14th
10 of 2011.

11 Q. On what computer did you do
12 that work when you were in Lago Agrio?

13 THE SPECIAL MASTER: That's
14 your last question.

15 A. The last document that I'm
16 referring to post-judgment was done by
17 Mr. Zambrano, but under my directions over
18 the phone.

19 MR. VESELKA: Objection,
20 nonresponsive. The question went to the
21 ones he did while he was in Lago Agrio, so
22 it wouldn't be over the phone. I just
23 would like to follow up to --

24 THE SPECIAL MASTER: No, you
25 are out of time. In fact, you have used

1 A. GUERRA BASTIDAS

2 up more time than you were allotted.

3 MR. VESELKA: We would request
4 that this is insufficient time because of
5 the translation and the number of
6 objections and that we need more time with
7 this witness, not to say it has to be
8 today, but we believe that there should be
9 more time allotted because of the problems
10 with translation and because of the
11 crucial nature of this witness.

12 THE SPECIAL MASTER: I will
13 take a written submission on that as to
14 what you think you need and how much time
15 it is, and I will make a decision based on
16 that.

17 MR. VESELKA: We will provide
18 that.

19 MR. MASTRO: Your Honor, I just
20 have a few quick questions for the
21 witness.

22 THE SPECIAL MASTER: No, no.

23 MR. MASTRO: Your Honor --

24 THE SPECIAL MASTER: No. I
25 will tell you what I would do -- wait a

1 A. GUERRA BASTIDAS

2 second.

3 MR. MASTRO: Your Honor, I will
4 be very brief.

5 THE SPECIAL MASTER: Not only
6 would you be very brief, I want to hear --
7 we are just going to have an offer of
8 proof as to why you need the seven or
9 eight minutes that you think you need, and
10 I will tell you in advance, unless it is
11 something that is out and out misleading
12 that resulted from a question from
13 Mr. Veselka, you ain't getting any time.

14 MR. MASTRO: I understand, and
15 I think I will be able to explain that to
16 your satisfaction. And I probably
17 wouldn't even need five minutes.

18 THE VIDEOGRAPHER: Off the
19 record, 7:18 p.m.

20 (The following portion was
21 sealed and is bound in separate
22 transcript.)

23 THE VIDEOGRAPHER: We are going
24 back on the record at 7:26 p.m.

25 MR. MASTRO: Mr. Veselka and I

1 A. GUERRA BASTIDAS

2 have talked about the references to Doe 1,
3 and we both agree that that was really a
4 reference to Doe 2. So all of the
5 questions about Doe 1 and answers about
6 Doe 1 were really in reference to Doe 2
7 based on the submissions that were made to
8 the court.

9 MR. VESELKA: Right. We agree
10 and stipulate. Do we want to have him
11 change it in the transcript so it won't be
12 confusing to people later?

13 THE SPECIAL MASTER: I think
14 the parties ought to agree on a revision
15 of the transcript and submit it to me,
16 too.

17 MR. MASTRO: That's fine by us.

18 THE SPECIAL MASTER: Okay.
19 Tell him it is not his issue and not his
20 problem.

21 Okay, I'm going to allow
22 Mr. Clayman, counsel for the witness, to
23 clarify two or three points in a very
24 short period of time.

25 EXAMINATION BY MR. CLAYMAN:

1 A. GUERRA BASTIDAS

2 Q. Firstly, you testified your
3 income tax for Ecuador, the last one
4 filed, showed about \$42,000 in income.

5 A. For the year 2012, yes, that
6 amount, approximately.

7 Q. And was there money that you
8 received during that year that was not
9 included on your income tax return?

10 A. Yes.

11 Q. And did that come from private
12 sources?

13 A. Yes.

14 Q. Secondly, at the end of the
15 questioning today, it was my perception,
16 and I have spent a lot of time with you,
17 that you were feeling a little tired, and
18 I want to go through an issue with regard
19 to the meeting in Chicago in November very
20 quickly.

21 The first thing that was
22 discussed in Chicago was your declaration;
23 is that correct?

24 MR. VESELKA: Objection, form.

25 A. Yes.

1 A. GUERRA BASTIDAS

2 Q. And only after that was the
3 agreement begun to be discussed; is that
4 correct?

5 MR. VESELKA: Objection, form,
6 leading.

7 THE SPECIAL MASTER: It is like
8 redirect. It can be done to move things
9 along, absolutely.

10 Q. You can answer that.

11 A. Indeed, that's what happened.
12 There were only conversations regarding an
13 agreement, nothing was made concrete on
14 that issue.

15 Q. And when you left Chicago,
16 there was no written agreement, you
17 weren't shown any agreement; is that
18 correct?

19 A. Correct, yes, that's correct.

20 Q. And in fact you didn't retain
21 me until sometime in the middle or end of
22 December; is that correct?

23 A. True, yes.

24 Q. And at that time we discussed
25 terms of this agreement, some of which had

1 A. GUERRA BASTIDAS

2 actually never even been brought up

3 before; isn't that correct?

4 MR. VESELKA: Objection, form.

5 A. Yes, as Mr. Clayman states,

6 that's how things happened.

7 Q. And only after I finished
8 negotiation with Chevron's lawyers did we
9 finally in January get this agreement that
10 you signed with those terms set forth; is
11 that correct?

12 MR. VESELKA: Objection,
13 leading.

14 THE SPECIAL MASTER: Objection
15 overruled for the same reasons. I don't
16 want to be here another half hour.

17 A. That's correct, as the person
18 asking the question states.

19 Q. And, finally, one of the new
20 parts of that agreement were issues
21 regarding bringing your son and daughter
22 with you from Ecuador into this country
23 because of their safety concerns and
24 readjusting the amount of money that was
25 needed; is that correct?

1 A. GUERRA BASTIDAS

2 MR. VESELKA: Same objection.

3 Objection to form, leading.

4 THE SPECIAL MASTER: Overruled.

5 MR. VESELKA: And

6 mischaracterizes his previous testimony.

7 THE SPECIAL MASTER: Overruled.

8 A. It is precisely around the time
9 referred to in the question that my son
10 decided to leave Ecuador. He fears for
11 his safety, and I conveyed this detail to
12 Chevron through Mr. Clayman, and somehow
13 through a bit of pressure from me I am
14 able to have my son come over, and based
15 on that, it's the written agreement that I
16 have signed with the terms it contains.

17 MR. CLAYMAN: Thank you. I
18 have no further questions, your Honor.

19 THE SPECIAL MASTER: No one
20 else has any further questions today.

21 MR. VESELKA: We would want to
22 follow up on those, but I understand we
23 are not going to.

24 THE SPECIAL MASTER: Not today,
25 we are not.

1 A. GUERRA BASTIDAS

2 THE VIDEOGRAPHER: We are going
3 off the record 7:33 p.m. This is the end
4 of disk six and concludes today's
5 deposition of Alberto Guerra Bastidas.

6 THE SPECIAL MASTER: Mr.
7 Veselka, you are going to make a
8 submission to me about additional time.
9 You better make it by Monday afternoon, by
10 close of business on Monday, okay?

11 MR. VESELKA: Right.

12 THE SPECIAL MASTER: Thank you.

13 MR. MASTRO: And we will have
14 the opportunity to object?

15 THE SPECIAL MASTER: You will
16 have 24 hours to object.

17 MR. MASTRO: Because we will
18 object.

19 (Continued on the next page.)
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25

1 A. GUERRA BASTIDAS

2 THE SPECIAL MASTER: I'm not
3 surprised.

4 (Time noted: 7:34 p.m.)
5
6

7 -----
ALBERTO GUERRA BASTIDAS

8
9
10 Subscribed and sworn to before me
11 this ____ day of _____, 2013.
12

13 -----
14 NOTARY PUBLIC
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I N D E X

WITNESS	EXAMINATION BY	PAGE
BASTIDAS	VESELKA	13
	CLAYMAN	243

E X H I B I T S

GUERRA	DESCRIPTION	PAGE
Exhibit 7	AGB0091-0102	28
Exhibit 8	CVX-RICO-5916723-5916815	136
Exhibit 9	1/28/13 declaration of Guerra with attachments	210
Exhibit 10	Paper entitled Sobre El Medio Ambiente Amazonico Del Ecuador	221
Exhibit 11	Notice of Deposition	233
Exhibit 12	Documents received in response to subpoena	234

DIRECTIONS NOT TO ANSWER

Page Line
(NONE)

REQUESTS

Page Line
(NONE)

CERTIFICATION

I, TODD DeSIMONE, a Notary Public for
and within the State of New York, do
hereby certify:

That the witness whose testimony as
herein set forth, was duly sworn by me;
and that the within transcript is a true
record of the testimony given by said
witness.

I further certify that I am not related
to any of the parties to this action by
blood or marriage, and that I am in no way
interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set
my hand this 3rd day of May, 2013.

TODD DESIMONE

1

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2

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NAME OF CASE: CHEVRON vS. DONZIGER**DATE OF DEPOSITION: MAY 2, 2013**

5

NAME OF DEPONENT: ALBERTO GUERRA BASTIDAS

6

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ALBERTO GUERRA BASTIDAS

22

SUBSCRIBED AND SWORN TO BEFORE ME

23

THIS ___ DAY OF _____, 20__.

24

25

(NOTARY PUBLIC)

MY COMMISSION EXPIRES: